

No. 55.

## AGAINST SURETIES FOR PAYMENT OF RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the      day of      18      , at      , one street, E. F. hired from the plaintiff, for the term of      years, the [house No.      , at the annual rent of      rupees, payable [monthly].
  2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said E. F., to guarantee the punctual payment of the said rent.
  3. That the rent aforesaid for the month of 18      , amounting to      rupees, has not been paid.
- [If, by the terms of the agreement, notice is required to be given to the surety, add:—]
4. That on the      day of      18      , the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.
  5. That he has not paid the same.

[Demand of judgment.]

## B. PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

## FOR BREACH OF AGREEMENT TO CONVEY LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the      day of      18      , at      , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.
  - [Or that on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of      rupees then paid, and of the further sum of ten thousand rupees payable as hereafter mentioned, he would, on the      day of      18      , at      , execute to the plaintiff a sufficient conveyance of [the house No.      street, in the city of      free from all incumbrances; and the plaintiff agreed to pay ten thousand rupees for the same on delivery thereof]
  2. That on the      day of      18      , the plaintiff demanded the conveyance of the said property from the defendant and tendered      rupees to the defendant [or, that all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.]
  3. That on the      day of      18      , the plaintiff again demanded such conveyance [or, that the defendant refused to execute the same].
  4. That the defendant has not executed any conveyance of the said property to the plaintiff [or that there is a mortgage upon the said property, made by      to      , for      rupees, registered in the office of      , on the      day of      18      , and still unsatisfied, or any other defect of title].
  5. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.
- The plaintiff prays judgment for      rupees compensation.

No. 57.

## FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the      day of      18      , at      , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.
- [Or that on the      day of      18      , at      , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff, forty bighás of land in the village of      for      rupees].
2. That on the      day of      18      , at      , the plaintiff being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [or, was ready and willing, and offered to convey the same to the defendant by a sufficient instrument,] on the payment by the defendant of the said sum.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 58.

*Another Form.*

## FOR NOT COMPLETING A PURCHASE OF IMMOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That by an agreement dated the      day of      187      , it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of      rupees, upon the terms and conditions following (that is to say):—

(a.) That the defendant should pay the plaintiff a deposit of      rupees in part of the said purchase money on the signing of the said agreement, and the remainder on the day of      187      , on which day the said purchase should be completed.

(b.) That the plaintiff should deduce and make a good title to the said premises on or before the      day of      187      , and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[ Demand of judgment. ]

No. 59.

## FOR NOT DELIVERING GOODS SOLD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the      day of      18      , at      , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the      day of      18      ,] and that the plaintiff should pay therefor      rupees on delivery.

2. That on the [said] day, the plaintiff was ready and willing, and offered, to pay the defendant the said sum upon delivery of the said goods.

3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[ Demand of judgment. ]

No. 60.

## FOR BREACH OF CONTRACT TO EMPLOY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the      day of      18      , at      , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, or in the capacity of foreman, or as the case may be], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services      rupees [monthly].

2. That on the      day of      18      , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.

3. That on the      day of      18      , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[ Demand of judgment. ]

## No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [As in last preceding Form.]
2. That on the       day of       18       , at       , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.
3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[ Demand of judgment. ]

## No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , at       , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at [an annual] compensation of       rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year].
2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the       day of       18       offered so to do].
3. That the defendant [entered upon the service of the plaintiff on the above-mentioned day, but afterwards, on the       day of       18       , he] refused to serve the plaintiff as aforesaid.

[ Demand of judgment. ]

## No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       \*       18       , at       , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed:

[ Or state the tenor of the contract. ]

- [2. That the plaintiff duly performed all the conditions of the said agreement on his part.]
3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[ Demand of judgment. ]

## No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , at       , the defendant entered into an agreement, under his hand and seal,\* a copy of which is hereto annexed:

[ Or state the tenor of these covenants. ]

2. That after the making of the said agreement the plaintiff received the said [apprentice] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the       day of       18       , the said [apprentice] wilfully absented himself from the service of the plaintiff, and continues so to do.

[ Demand of judgment. ]

\* The form given in Act XIX of 1880 requires the seal of the father or guardian.

No. 65.

## BY THE APPRENTICE AGAINST THE MASTER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , at       , the defendant entered into an agreement with the plaintiff's father, E. F., under their hands and seals, a copy of which is hereto annexed.

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not [instructed the plaintiff in the business of       or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment.]

[Demand of judgment.]

No. 66.

## ON A BOND FOR THE FIDELITY OF A CLERK.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , at       , plaintiff employed one E. F. as a clerk.

2. That on the       day of       18       , at       , the defendant agreed with the plaintiff, that if the said E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding       rupees.

[Or, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of       rupees, conditioned that if the said E. F. should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void, but not otherwise.]

[Or, 2. That at the same time and place, the defendant executed to the plaintiff a bond a copy of which is annexed.]

3. That between the       day of       18       and the       day of       18       , the said E. F. received money and other property, amounting to the value of       rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[Demand of judgment.]

No. 67.

## BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , at       , the defendant, by an instrument in writing, let to the plaintiff [the house No.       street,       ] for the term of       years, covenanting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the       day of       during the said term, one E. F., who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend       rupees in moving, and lost the custom of G. H. and I. J. by such removal.]

[Demand of judgment.]



No. 68.

## FOR BREACH OF WARRANTY OF MOVABLES.

(Title.)

*A. B.*, the above-named plaintiff, states as follows:—

1. That on the      day of      18      , at      , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him      rupees therefor.
2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which would otherwise have accrued to him while the engine was under repair.

[Demand of judgment.]

No. 69.

## ON AN AGREEMENT OF INDEMNITY.

(Title.)

*A. B.*, the above named plaintiff, states as follows:—

1. That on the      day of      18      , at      , the plaintiff and defendant, being partners in trade under the firm of *A. B. and C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.
2. That the plaintiff duly performed all the conditions of the said agreement on his part.
3. That on the      day of      18      [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at      upon a debt due from the said firm to the said *E. F.*, and on the      day of      18      ] the plaintiff paid      rupees [in satisfaction of the same].
4. That the defendant has not paid the same to the plaintiff.

[Demand of judgment.]

No. 70.

## BY OWNERS AGAINST FREIGHT OR FOR NOT LOADING.

(Title.)

*A. B.*, the above-named plaintiff, states as follows:—

1. That on the      day of      18      , at      , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed. [Or, 1. That on      , at      , the plaintiff and defendant agreed by charter party that the defendant should deliver to the plaintiff's ship      at      , on the      day of      18      , five hundred tons of merchandise, which she should carry to      , and there deliver, on payment of      freight; and that the defendant should have      days for loading,      days for discharge, and      days for demurrage, if required, at      rupees per day.]
2. That at the time fixed by the said agreement the plaintiff was ready and willing and offered to receive [the said merchandise, or, the merchandise mentioned in the said agreement] from the defendant.
3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel. Wherefore, the plaintiff demands judgment for      rupees for demurrage and      rupees additional for compensation.

## C. PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

## FOR TRESPASS ON LAND.

(Title.)

*A. B.*, the above-named plaintiff, states as follows:—

- That on the      day of      18      , at      , the defendant entered upon certain land of the plaintiff, known as      [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[Demand of judgment.]

## No. 72.

## FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant entered a dwelling-house of the plaintiff called \_\_\_\_\_, and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.
2. That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[Demand of judgment.]

## No. 73.

## FOR TRESPASS ON MOVABLES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, at \_\_\_\_\_, the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street [or seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, or as the case may be], and carried away the same and disposed of them to his own use:  
[or, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.]
2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at \_\_\_\_\_ fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [otherwise state the injury according to the facts].

[Demand of judgment.]

## No. 74.

## FOR THE CONVERSION OF MOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, plaintiff was in possession of certain goods described in the schedule hereto annexed [or of one thousand barrels of flour].
2. That on that day, at \_\_\_\_\_, the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[Demand of judgment.]

The Schedule.

## No. 75.

## AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, at \_\_\_\_\_, the defendant, in consideration of the payment to him of \_\_\_\_\_ rupees [or, \_\_\_\_\_ rupees per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour], and to deliver the same to the plaintiff, on payment of the said sum.

2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].

3. That on the day of 18 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [or, the full amount of storage due thereon], but the defendant refused to deliver the same.

4. That the plaintiff was thereby prevented from selling the said goods to E. F., and the same are lost to the plaintiff.

[Demand of judgment.]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.

3. That the said representations were false [or, state the particular falsehoods], and were then known by the defendant to be so.

4. That the defendant has not paid for the said goods. [Or, if the goods were not delivered] That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.

[Demand of judgment.]

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant represented to the plaintiff, that one E. F. was solvent and in good credit, and worth rupees over all his liabilities [or, that E. F. then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. That the plaintiff was thereby induced to sell to the said E. F. [rice] of the value of rupees [on month's credit].

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [or, to deceive and injure the plaintiff].

4. That the said E. F. [did not pay for the said goods at the expiration of the credit aforesaid, or,] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[Demand of judgment.]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called and situate in , and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same so flow or run without being fouled or polluted.

2. That on the day of 18 , the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3. That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[Demand of judgment.]

No. 79.

## FOR CAUSEING ON A NOXIOUS MANUFACTURE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called <sup>situate in</sup> day of 18, the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.
2. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.
3. That by reason of the premises the plaintiff was unable to depasture the said lands with cattle and sheep, as he otherwise might have done, and was obliged to remove his cattle, sheep and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[Demand of judgment.]

No. 80.

## FOR OBSTRUCTING A WAY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at the time hereafter mentioned was, possessed of [a house in the town of ].
2. That he was accustomed to pass [with vehicles, or, on foot] along a certain way leading from his said house to [the highway].
3. That on the day 18, the defendant obstructed the said way, so that the plaintiff could not pass [with vehicles, or, on foot, or, in any manner] along the said way [and has ever since obstructed the same].
4. [State special damage, if any.]

[Demand of judgment.]

## Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from to so as to obstruct it.
2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [or, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[Demand of judgment.]

No. 81.

## FOR DIVERTING A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream], known as the , in the village of district of .
2. That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.
3. That on the day of 18, the defendant, by cutting the bank of the said stream, diverted the water thereof so that less water ran into the plaintiff's mill.
4. That by reason thereof, the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[Demand of judgment.]



No. 82.

## FOR OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, &c., and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2. That on the       day of       the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by obstructing and diverting the said stream.

[Demand of judgment.]

No. 83.

## FOR WASTE BY A LESSEE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , the defendant hired from him the [house No.       street] for the term of

2. That the defendant occupied the same under such hiring.

3. That during the period of such occupation, the defendant greatly injured the premises [defaced the walls, tore up the floors, and broke down the doors; or otherwise specify the injuries as far as possible].

The plaintiff prays judgment for       rupees compensation.

No. 84.

## FOR ASSAULT AND BATTERY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

That on the       day of       18       , at       , the defendant assaulted and beat him.

The plaintiff prays judgment for       rupees compensation.

No. 85.

## FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , at       , the defendant assaulted and beat the plaintiff, until he became insensible.

2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay       rupees for medical attendance, and has been ever since disabled [from using his right arm]. [Or otherwise state the damage, as the case may be.]

[Demand of judgment.]

No. 86.

## FOR ASSAULT AND FALSE IMPRISONMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , at       , the defendant assaulted the plaintiff and imprisoned him for       days [or hours]; [state special damage, if any, thus:—]

2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment, [or otherwise as the case may be].

[Demand of judgment.]

No. 87.

## FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the       day of       18       , the defendants were common carriers of passengers by railway between       and      

2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3. That while he was such passenger, at       [or, near the station of      ] ; or, between the stations of       and       , a collision occurred on the said railway, caused by the negligence and unskillfulness of the defendants' servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., and state the special damage, if any, as], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as a salesman.

[Demand of judgment.]

[Or thus:—2. That on that day the defendants by their servants so negligently and unskillfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, &c., as in § 3.]

No. 88.

## FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is a shoe-maker, carrying on business at       . The defendant is a merchant of       .

2. On the [23rd May 1875], the plaintiff was walking eastward along Chowringhee, in the city of Calcutta, at about three o'clock in the afternoon. He was obliged to cross Harington street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of Harington Street into Chowringhee. The pole of the carriage struck the plaintiff, and knocked him down, and he was much trampled by the horses.

3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees       damages.

(Title.)

*Written Statement of Defendant.*

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. E. F. and G. H.] of \_\_\_\_\_ Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said Messrs. E. F. and G. H.

2. The defendant does not admit that the said carriage was turned out of Hayington Street either negligently, suddenly, or without warning, or at a rapid or dangerous pace.

3. The defendant says, that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.

4. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

FOR LIBEL; THE WORDS BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, at \_\_\_\_\_, the defendant published in a newspaper, called the \_\_\_\_\_ [or, in a letter addressed to E. F.], the following words, concerning the plaintiff:—

[Set forth the words used.]

2. That the said publication was false and malicious.

[Demand of judgment.]

*Note.*—If the libel was in a language not the language of the Court, set out the libel verbatim in the foreign language in which it was published, and then proceed thus:—"Which said words, being translated into the language, have the meaning and effect following, and were so understood by the persons to whom they were so published, that is to say, [here set out a literal translation of the libel in the language of the Court.]"

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff (is, and) was, on and before the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, a merchant, doing business in the city of \_\_\_\_\_

2. That on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, at \_\_\_\_\_, the defendant published in a newspaper, called the \_\_\_\_\_ [or, in a letter addressed to E. F., or otherwise show how published], the following words concerning the plaintiff:—

["A. B., of this city, has modestly retired to foreign lands. It is said that creditors to the amount of \_\_\_\_\_ rupees are anxiously seeking his address."]

3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].

4. That the said publication was false and malicious.

[Demand of judgment.]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, at \_\_\_\_\_, the defendant falsely and maliciously spoke, in the hearing of E. F. [or, sundry persons], the following words, concerning the plaintiff: "He is a thief."

2. That, in consequence of the said words, the plaintiff lost his situation as \_\_\_\_\_ in the employ of \_\_\_\_\_

[Demand of judgment.]

## No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the      day of      18      at      the defendant falsely and maliciously said to one E. F., concerning the plaintiff: [“He is a young man of remarkably easy conscience”].
2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.
3. That, in consequence of the said words, [the said E. F. refused to employ the plaintiff as a clerk].

[ Demand of judgment. ]

## No. 93.

FOR MALICIOUS PROSECUTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the      day of      18      at      the defendant obtained a warrant of arrest from      [ a police magistrate of the said city, or, as the case may be, ] on a charge of      and the plaintiff was arrested thereon, and imprisoned for      [ days, or, hours, and gave bail in the sum of rupees to obtain his release ].
2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.
3. That on the      day of      18      the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.
4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; or, that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one E. F., or, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[ Demand of judgment. ]

## D. PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

## No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That he is the absolute owner of [ the estate, or, the share of the estate, called      situate in the District of      the Government revenue of which is rupees      and the estimated value rupees      or, of the house No.      street in the town of Calcutta the estimated value of which is rupees      ].
2. That the defendant withholds the possession thereof from the plaintiff.  
The plaintiff prays judgment.  
(1). For the possession of the said premises;  
(2). For      rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows:—

1. On the      day of      the plaintiff, by deed, let to the defendant a house and premises No. 62 Russell Street, in the      for a term of five years from the      day of      at the monthly rent of rupees 300.
2. By the said deed the defendant covenanted to keep the said house and premises in good and tenantable repair.
3. The said deed also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.



4. On the day of 187 a month's rent became due, and on the day of 187 another month's rent became due; on the day of 187 both had been in arrear for twenty-one days, and both are still due.
5. On the same day of 187 the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to re-instate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims:
- (1). Possession of the said house and premises;
  - (2). Rupees for arrears of rent;
  - (3). Rupees damages for the defendant's breach of his covenant to repair;
  - (4). Rupees for the occupation of the house and premises from the day of 187 to the day of recovering possession.

No. 95.

BY THE PLAINT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That one E. F. is the absolute owner of [a piece of land in the town of Calcutta, bounded as follows: ], the estimated value of which is rupees
2. That on the day of 18, the said E. F. let the said premises to the plaintiff for years, from
3. That the defendant withholds the possession thereof from the plaintiff.

[ Demand of judgment. ]

No. 96.

FOR MOVABLE PROPERTY WRONGFULLY TAKEN.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, plaintiff owned [ or, was possessed of ] one hundred barrels of flour, the estimated value of which is rupees
  2. That on that day, at , the defendant took the same.
- The plaintiff prays judgment:
- (1.) For the possession of the said goods, or for rupees in case such possession cannot be had;
  - (2.) For rupees compensation for the detention thereof.

No. 97.

FOR MOVABLES WRONGFULLY DETAINED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, plaintiff owned [ or, state facts showing a right to the possession ] the goods mentioned in the schedule hereto annexed [ or describe the goods ], the estimated value of which is rupees
  2. That from that day until the commencement of this suit, the defendant has detained the same from the plaintiff.
  3. That before the commencement of this suit, to wit, on the day of 18, the plaintiff demanded the same from the defendant, but he refused to deliver them.
- The plaintiff prays judgment:
- (1.) For the possession of the said goods, or for rupees, in case such possession cannot be had;
  - (2.) For rupees compensation for the detention thereof.

The schedule.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFERREES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the defendant [ C. D. ], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [ he was solvent, and worth rupees over all his liabilities ].

2. That the plaintiff was thereby induced to sell and deliver to the said C. D. [one hundred boxes of tea], the estimated value of which is                      rupees.
  3. That the said representations were false, and were then known by the said C. D. to be so. [Or, That at the time of making the said representations, the said C. D. was insolvent, and knew himself to be so.]
  4. That the said C. D. afterwards transferred the said goods to the defendant, E. F.
- The plaintiff prays judgment:
- (1). For the possession of the said goods, or for                      rupees, in case such possession cannot be had;
  - (2). For                      rupees compensation for the detention thereof.

### E. PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

#### FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the                      day of                      18                      , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at                      , contained [ten bighās].
  2. That the plaintiff was thereby induced to purchase the same at the price of                      rupees in the belief that the said representation was true, and signed an agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.
  3. That on the                      day of                      18                      , the plaintiff paid the defendant                      rupees as part of such purchase-money.
  4. That the said piece of ground contained in fact only [five bighās].
- The plaintiff prays judgment:
- (1). For                      rupees, with interest from the                      day of                      18                      ;
  - (2). That the said agreement of purchase be delivered up and cancelled.

No. 100.

#### FOR AN INJUNCTION RESTRAINING WASTE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is the absolute owner of [describe the property].
  2. That the defendant is in possession of the same under a lease from the plaintiff.
  3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.
- The plaintiff prays judgment, that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[Pecuniary compensation might also be prayed.]

No. 101.

#### FOR ABATEMENT OF A NUISANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No.                      street, Calcutta].
  2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street                      ].
  3. That on the                      day of                      18                      , the defendant erected upon his said lot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].
  4. That [the plaintiff] has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same.
- The plaintiff prays judgment, that the said nuisance be abated.

## No. 102.

## FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

[As in No. 81.]

The plaintiff prays judgment, that the defendant be restrained by injunction from diverting the water as aforesaid.

## No. 103.

## FOR RESTORATION OF MOVABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather, which was executed by an eminent painter], and of which no duplicate exists [or state any facts showing that the property is of a kind that cannot be replaced by money].

2. That on the                      day of                      18                      , he deposited the same for safe-keeping with the defendant.

3. That on the                      day of                      18                      , he demanded the same from the defendant, and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff, and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the said [painting].

The plaintiff prays judgment:

- (1). That the defendant be restrained by injunction from disposing of, injuring or concealing the said [painting];
- (2). That he return the same to the plaintiff.

[Note.—See *Wood v. Rowell*, 2 Hare 309. And see 2 Giff. 84.]

## No. 104.

## INTERPLEADER

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That before the date of the claims hereinafter mentioned, one G. H. deposited with the plaintiff [describe the property] for [safe keeping].

2. That the defendant, C. D., claims the same [under an alleged assignment thereof to him from the said G. H.].

3. That the defendant, E. F., also claims the same [under an order of the said G. H. transferring the same to him].

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

- (1). That the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;
- (2). That they be required to interplead together concerning their claims to the said property;
- (3). That some person be authorized to receive the said property pending such litigation;
- (4). That upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

## No. 105.

## ADMINISTRATION BY CREDITOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. E. F., late of                      was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [here insert nature of debt and security, if any].

2. The said E. F. made his Will, dated the      day of      and thereof appointed C. D. executor [or, devised his estate in trust, &c., or, died intestate, as the case may be].

3. The said Will was proved by the said C. D. [or, letters of administration were granted, &c.].

4. The defendant has possessed himself of the moveable [and immovable, or, the proceeds of the immovable] property of the said E. F., and has not paid the plaintiff his said debt.

5. The said E. F. died on or about the      day of     

6. The plaintiff prays that an account may be taken of the moveable [and immovable] property of the said E. F., deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEES.

(Title.)

[Alter Form 105 thus:—]

[Omit paragraph 1 and commence paragraph 2] E. F., late of      , duly made his last Will, dated the      day of      and thereof appointed C. D. executor and by such Will bequeathed to the plaintiff [here state the specific legacy].  
For paragraph 4, substitute—

The defendant is in possession of the moveable property of the said E. F., and, amongst other things, of the said [here name the subject of the specific bequest].

For the commencement of paragraph 6 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said [here name the subject of the specific bequest] or that, &c.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEES.

(Title.)

[Alter Form 105 thus:—].

[Omit paragraph 1 and substitute for paragraph 2] E. F., late of      , duly made his last Will dated the      day of      and thereof appointed C. D. executor and by such Will bequeathed to the plaintiff a legacy of rupees      .  
In paragraph 4, substitute "legacy" for "debt."

Another Form.

Between E. F.      ...      Plaintiff  
and  
G. H.      ...      Defendant

A. B., the above-named plaintiff, states as follows:—

1. A. B. of K in the      duly made his last Will, dated the [first day of March 1873], whereby he appointed the defendant and M. N. [who died in the testator's life-time] executors thereof, and bequeathed his property, whether moveable or immovable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immovable property for the person who would be the testator's heir-at-law, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the [first day of July 1873], and his Will was proved by the defendant on the [fourth of October 1873]. The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immovable property; the defendant entered into the receipt of the rents of the immovable property and got in the moveable property; he has sold some part of the immovable property.

The plaintiff claims—

(1). To have the moveable and immovable property of A. B. administered in this Court, and for that purpose to have all proper directions given and accounts taken.

(2). Such further or other relief as the nature of the case may require.

Between E. F.      ...      Plaintiff  
and  
G. H.      ...      Defendant.



*Written Statement of Defendant.*

1. *A. B.*'s Will contained a charge of debts; he died insolvent; he was entitled at his death to some immoveable property which the defendant sold, and which produced the nett sum of rupees      and the testator had some moveable property which the defendant got in, and which produced the nett sum of rupees
2. The defendant applied the whole of the said sums and the sum of rupees      which the defendant received from rents of the immoveable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.
3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the {tenth of January 1875}, and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.
4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

## EXECUTION OF TRUSTS.

IN THE COURT OF

AT

Civil Regular No.

*A. B.* of

... Plaintiff,

against

*C. D.* of

the beneficiary [or, one

of the beneficiaries],

... Defendant.

*A. B.*, the above-named plaintiff, states as follows:—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the      day of      made upon the marriage of the said *E. F.* and *G. H.* the father and mother of the defendant [or, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*].
2. The said *A. B.* has taken upon himself the burden of the said trust, and is in possession of [or, of the proceeds of] the moveable and immoveable property conveyed [or assigned] by the before-mentioned deed.
3. The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.
4. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, or of part of the said, immoveable property, or moveable, or the proceeds of the sale of, or of part of, the said moveable, property, or the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the Court may direct, or that the said *C. D.* may shew good cause to the contrary.

[*N. B.*—Where the suit is by a beneficiary, the plaint may be modelled, *mutatis mutandis*, on the plaint by a legatee.]

No. 109.

## FORECLOSURE ON SALE.

(Title.)

*A. B.*, the above-named plaintiff, states as follows:—

1. By an instrument of mortgage bearing date on or about the      day of      18      , a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed [or assigned] by the defendant to him the plaintiff, his heirs [or executors, administrators,] and assigns, for securing the principal sum of Rs.      together with interest thereon after the rate of Rs.      per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.
2. There is now due from the defendant to the plaintiff the sum of Rs.      for principal and interest on the said mortgage.
3. The plaintiff prays (a) that the Court will order the defendant to pay him the said sum of Rs.      , with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the equity of redemption of the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (b) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (c) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (d) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

## REDEMPTION.

(Title.)

[Alter Form 109 thus:—]

*Transpose parties and also the facts in paragraph 1.**For paragraph 2, substitute—*

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. \_\_\_\_\_ which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

*For paragraph 3, substitute—*

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey [or re-assign] the same to him upon payment of the said sum of Rs. \_\_\_\_\_ and interest, with such costs (if any), as the Court may order upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance [or assignment], and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

No. 111.

## SPECIFIC PERFORMANCE. (No. 1).

(Title.)

*A. B., the above-named plaintiff, states as follows:—*

1. By an agreement dated the \_\_\_\_\_ day of \_\_\_\_\_ and signed by the above-named defendant, C. D., he the said C. D. contracted to buy of [or sell to] him certain immovable property, therein described and referred to, for the sum of Rs. \_\_\_\_\_
2. He has applied to the said C. D. specifically to perform the said agreement on his part, but he has not done so.
3. The said A. B. has been and still is ready and willing specifically to perform the agreement on his part, of which the said C. D. has had notice.
4. The plaintiff prays that the Court will order the said A. B. specifically to perform the said agreement, and to do all acts necessary to put the said A. B. in full possession of the said property [or to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[N. B.—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled, such as that the plaintiff signed it by mistake, under mistake, or by the fraud of the defendant, and alter the prayer according to the relief sought.]

No. 112.

## SPECIFIC PERFORMANCE. (No. 2).

(Title.)

*A. B., the above-named plaintiff, states as follows:—*

1. That on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, the defendant was absolutely entitled to certain immovable property described in the agreement hereto annexed.
2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.
3. That on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, the plaintiff tendered \_\_\_\_\_ rupees to the defendant, and demanded a conveyance of the said property.
4. That on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, the plaintiff again demanded such conveyance. [Or, that the defendant refused to convey the same to the plaintiff.]
5. That the defendant has not executed such conveyance.
6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:

- (1). That the defendant execute to the plaintiff a sufficient conveyance of the said property [following the terms of the agreement];
- (2). For \_\_\_\_\_ rupees compensation for withholding the same.

No. 113.

## PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. He and the said C. D., the defendant, have been for the space of years [or months] last past carrying on business together at jurisdiction of this Court, under certain articles of partnership in writing, signed by them respectively, [or, under a certain deed sealed and executed by them respectively, or, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [or deed, or agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [or deed, or agreement], or that, if the said assets shall prove insufficient, be the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by of  
Plender for the plaintiff, or by

[N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution: but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.]

No. 114.

## FORMS OF CONCISE STATEMENTS.

Money lent.	The plaintiff's claim is	rs. for money lent [and interest].
Several demands.	The plaintiff's claim is	rs., whereof rs. is for the price of
Rent.	goods sold, and	rs. for interest.
Salary, &c.	The plaintiff's claim is	rs. for money lent, and
	The plaintiff's claim is	rs. for arrears of rent.
	may be.	rs. for arrears of salary as a clerk [or, as the case
Interest.	The plaintiff's claim is	rs. for interest upon money lent.
General average.	The plaintiff's claim is	rs. for a general average contribution.
Freight, &c.	The plaintiff's claim is	rs. for freight and demurrage.
Banker's balance.	The plaintiff's claim is	rs. for money deposited with the defendant as a
Fees, &c., as solicitors.	banker.	rs. for fees for work done [and
Commission.	The plaintiff's claim is	rs. for commission earned as [state character, as
	money expended] as a pleader.	rs. for medical attendances.
	The plaintiff's claim is	rs. for a return of premiums paid upon policies
Medical attendances, &c.	suctioneer, cotton-broker, &c.].	rs. for the warehousing of goods.
Return of premium.	The plaintiff's claim is	rs. for the carriage of goods by railway.
Warehouses rent.	The plaintiff's claim is	rs. for the use and occupation of a house.
Carriage of goods.	The plaintiff's claim is	
Use and occupation of house.	The plaintiff's claim is	rs. for the hire of [furniture].
Hire of goods.	The plaintiff's claim is	rs. for work done as a [surveyor].
Work done.	The plaintiff's claim is	rs. for board and lodging.
Board and lodging.	The plaintiff's claim is	rs. for the [board, lodging and] tuition of X, Y.
Schooling.	The plaintiff's claim is	rs. for money received by the defendant as pleader
Money received.	[or factor, or collector, or, &c.] of the plaintiff.	rs. for fees received by the defendant under colour
Fees of office.	The plaintiff's claim is	rs. for a return of money overcharged for the car-
	of the office of	rs. for a return of fees overcharged by the defend-
Money over-	The plaintiff's claim is	
paid.	riage of goods by railway.	
	The plaintiff's claim is	
	ant as	

Return of money by stake-holder.	The plaintiff's claim is as stake-holder.	rs. for a return of money deposited with the defendant.
Money won from stake-holder.	The plaintiff's claim is holder, and becomes payable to plaintiff.	rs. for money entrusted to the defendant as stake-holder.
Money entrusted to agent.	The plaintiff's claim is as agent of the plaintiff.	rs. for a return of money entrusted to the defendant.
Money obtained by fraud.	The plaintiff's claim is tiff by fraud.	rs. for a return of money obtained from the plaintiff.
Money paid by mistake.	The plaintiff's claim is mistake.	rs. for a return of money paid to the defendant by
Money paid for consideration which has failed.	The plaintiff's claim is [work to be done, or work left undone; or, a bill to be taken up, or, a bill not taken up, or, &c.]	rs. for a return of money paid to the defendant for
Money paid by surety for defendant.	The plaintiff's claim is shares to be allotted.	rs. for a return of money paid as a deposit upon
Rent paid.	The plaintiff's claim is	rs. for money paid for the defendant as his surety.
Money paid on accommodation-bill.	The plaintiff's claim is for the defendant's accommodation.	rs. for money paid for rent due by the defendant.
Contribution by surety.	The plaintiff's claim is the plaintiff as surety.	rs. upon a bill of exchange accepted [or indorsed]
By co-debtor.	The plaintiff's claim is the plaintiff and the defendant, paid by the plaintiff.	rs. for a contribution in respect of money paid by
Money paid for calls.	The plaintiff's claim is which the defendant was bound to indemnify the plaintiff.	rs. for a contribution in respect of a joint debt of
Money payable under award.	The plaintiff's claim is	rs. for money paid for calls upon shares, against
Life-policy.	The plaintiff's claim is deceased.	rs. for money payable under an award.
Money-bond.	The plaintiff's claim is rs. and interest.	rs. upon a policy of insurance upon the life of X. Y.,
Foreign judgment.	The plaintiff's claim is [the Empire of Russia].	rs. upon a bond to secure payment of
Bills of exchange, &c.	The plaintiff's claim is [indorsed] by the defendant.	rs. upon a judgment of the Court in
	The plaintiff's claim is the defendant.	rs. upon a cheque drawn by the defendant.
	The plaintiff's claim is against the defendant, C. D., as drawer [or indorser] of a bill of exchange.	rs. upon a bill of exchange accepted [or drawn, or
Surety.	The plaintiff's claim is goods sold.	rs. upon a promissory note made [or indorsed] by
	The plaintiff's claim is against the defendant, C. D., as surety, for the price of goods sold [or for arrears of rent, or for money lent, or for money received by the defendant, A. B., as traveller for the plaintiff, or, &c.]	rs. against the defendant, A. B., as acceptor, and
Calls.	The plaintiff's claim is	rs. against the defendant as surety for the price of
		rs. against the defendant, A. B., as principal, and
		rs. for calls upon shares.

## Indorsement for costs, &amp;c.

[Add to the above Forms] and rs. for costs; and if the amount claimed be paid to the plaintiff or his pleader within days [or, if the writ is to be served out of the jurisdiction, or notice in lieu of service is allowed, insert the time for appearance limited by the order] from the service hereof, further proceedings will be stayed.

## Damages and other claims.

Agent, &c.	The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.	
	The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].	
	The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.	
	The plaintiff's claim is for damages for breach of duty as factor [or, &c.] of the plaintiff [and rs. for money received as factor, or &c.]	
Apprenticeship.	The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X. Y. to the defendant [or plaintiff].	
Arbitration.	The plaintiff's claim is for damages for non-compliance with the award of X. Y.	
Assault, &c.	The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].	
By husband and wife.	The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, C. D.	
Against husband and wife.	The plaintiff's claim is for damages for assault by the defendant, C. D.	



Pleader.	The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.
Railment.	The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].
Pledge.	The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].
Hire.	The plaintiff's claim is for damages for negligence in the custody of furniture [or, a carriage] lent on hire, [and for wrongfully, &c.].
Banker.	The plaintiff's claim is for damages for wrongfully neglecting [or refusing] to pay the plaintiff's cheque.
Bill.	The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.
Bond.	The plaintiff's claim is upon a bond conditioned not to carry on the trade of a
Carrier.	The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway. The plaintiff's claim is for damages for refusing to carry the plaintiff by railway. The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of goods by railway. The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.
Charter-party.	The plaintiff's claim is for damages for breach of charter-party of ship [Mary].
Claim for return of goods; damages.	The plaintiff's claim is for return of household furniture, [or, &c.,] or their value, and for damages for detaining the same.
Damages for depriving of goods.	The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.
Defamation.	The plaintiff's claim is for damages for libel. The plaintiff's claim is for damages for slander.
Replevin; wrongful distress.	The plaintiff's claim is for damages for improperly distraining.
[This Form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular, and whether the claim be for damages only, or for double value].	
Ejectment.	The plaintiff's claim is to recover possession of a house, No.                      in                      Street, or of a farm called Blackacre, situate in the                      of                      in the                      of
To establish title and recover rents.	The plaintiff's claim is to establish his title to [here describe property] and to recover the rents thereof.
[The two previous Forms may be combined].	
Fishery.	The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.
Fraud.	The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [or a business, or shares, or, &c.]. The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of A. B.
Guarantee.	The plaintiff's claim is for damages for breach of a contract of guarantee for A. B. The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.
Insurance.	The plaintiff's claim is for a loss under a policy upon the ship [Royal Charter], and freight of cargo [or for return of premiums].
[This Form shall be sufficient whether the loss claimed be total or partial].	
Fire insurance.	The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture.
Landlord and tenant.	The plaintiff's claim is for damages for breach of a contract to insure a house. The plaintiff's claim is for damages for breach of a contract to keep a house in repair. The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.
Medical man.	The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.
Mischiefous animal.	The plaintiff's claim is for damages for injury by the defendant's dog.
Negligence.	The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants. The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants. The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.
Lord Campbell's Act.	The plaintiff's claim is as executor of A. B. deceased, for damages for the death of the said A. B. from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.
Promise of marriage.	The plaintiff's claim is for damages for breach of promise of marriage.
Sale of goods.	The plaintiff's claim is for damages for breach of contract to accept and pay for goods. The plaintiff's claim is for damages for non-delivery [or short delivery, or defective quality, or other breach of contract of sale] of cotton [or, &c.].
Sale of goods.	The plaintiff's claim is for damages for breach of warranty of a horse.
Sale of land.	The plaintiff's claim is for damages for breach of a contract to sell [or purchase] land. The plaintiff's claim is for damages for breach of a contract to let [or take] a house. The plaintiff's claim is for damages for breach of a contract to sell [or purchase] the lease, with good-will, fixtures, and stock-in-trade of a public-house. The plaintiff's claim is for damages for breach of covenant for title [or for quiet enjoyment, or, &c.] in a conveyance of land.
Trespass on land.	The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [or cutting his grass, or pulling down his timber, or pulling

	down his fences, or removing his gate, or using his road or path, or crossing his field, or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river].
Support.	The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [or house, or mine].
Way.	The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, or private way].
Watersource, &c.	The plaintiff's claim is for damages for wrongfully diverting [or obstructing, or polluting, or diverting water from] a water-course. The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [or into the plaintiff's mine].
	The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.
Pasture.	The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.
<i>[This Form shall be sufficient whatever the nature of the right to pasture be.]</i>	
Light.	The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.
Sporting.	The plaintiff's claim is for damages for the infringement of the plaintiff's right of sporting.
Patent.	The plaintiff's claim is for damages for the infringement of the plaintiff's patent.
Copy-right.	The plaintiff's claim is for damages for the infringement of the plaintiff's copy-right.
Trade-mark.	The plaintiff's claim is for damages for wrongfully using [or imitating] the plaintiff's trade-mark.
Work.	The plaintiff's claim is for damages for breach of a contract to build a ship [or to repair a house, &c.]. The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, &c.
Nuisance.	The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [or, &c.]. The plaintiff's claim is for damages from nuisance by noise from the defendant's works [or stables, or, &c.].
Injunction.	[Add to indorsement]:—and for an injunction. [Add to indorsement where claim is to land, or to establish title, or both]:—
Mesne profits.	and for mesne profits.
Arrears of rent.	and for an account of rents or arrears of rent.
Breach of covenant.	and for breach of covenant for [repairs].

## 1. Creditor to administer Estate.

The plaintiff's claim is as a creditor of *X. Y.*, of \_\_\_\_\_ deceased, to have the moveable and immovable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the administrator of the said *X. Y.*, [and the defendants, *E. F.* and *G. H.*, as his coheirs at law.]

## 2. Legatee to administer Estate.

The plaintiff's claim is as a legatee under the will dated the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_ of *X. Y.*, deceased, to have the moveable and immovable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the executor of the said *X. Y.* [and the defendants, *E. F.* and *G. H.*, as his devisees].

## 3. Partnership.

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the \_\_\_\_\_ day of \_\_\_\_\_], and to have the affairs of the partnership wound up.

## 4. By mortgagee.

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the \_\_\_\_\_ day of \_\_\_\_\_, made between [parties] [or, by deposit of title-deeds], and that the mortgage may be enforced by foreclosure or sale.

## 5. By mortgagor.

The plaintiff's claim is to have an account taken of what, if any thing, is due on a mortgage dated \_\_\_\_\_ and made between [parties], and to redeem the property comprised therein.

## 6. Raising Portions.

The plaintiff's claim is that the sum of \_\_\_\_\_ rs. which by an indenture of settlement, dated \_\_\_\_\_, was provided for the portions of the younger children of \_\_\_\_\_ may be raised.

7. *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated \_\_\_\_\_ and made between [parties] carried into execution.

8. *Cancellation, or Rectification.*

The plaintiff's claim is to have a deed dated \_\_\_\_\_ and made between [parties] set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the \_\_\_\_\_ day of \_\_\_\_\_ for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at \_\_\_\_\_

No. 115.

## PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will dated the \_\_\_\_\_ day of \_\_\_\_\_ of C. F., late of \_\_\_\_\_ deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_ and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [or, as the case may be].

2. *By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased seeking to obtain the revocation of a probate granted in common form.*

The plaintiff claims to be executor of the last will dated the \_\_\_\_\_ day of \_\_\_\_\_ of C. D., late of \_\_\_\_\_ deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_ and to have the probate of a pretended will of the said deceased, dated the \_\_\_\_\_ day of \_\_\_\_\_ revoked. This summons is issued against you as the executor of the said pretended will [or, as the case may be].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of C. D., late of \_\_\_\_\_ deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_ The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.*

The plaintiff claims to be the brother and sole next-of-kin of C. D. of \_\_\_\_\_ deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_ intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [or, as the case may be].

*Indorsements of character of Parties.*

The plaintiff's claim is as executor [or administrator] of C. D., deceased, for, &c.  
The plaintiff's claim is against the defendant, A. B., as executor [or, &c.] of C. D., deceased, for, &c.

The plaintiff's claim is against the defendant, A. B., as executor of X. Y., deceased, and against the defendant, C. D., in his personal capacity, for, &c.

The claim of the plaintiff, C. D., is as executrix of X. Y., deceased, and the claim of the plaintiff, A. B., as her husband, for

The plaintiff's claim is as [or, the plaintiff's claim is against the defendant as] trustee under the will of A. B. [or under the settlement upon the marriage of A. B. and X. Y. his wife].

The plaintiff's claim is as public officer of the \_\_\_\_\_ Bank, for  
The plaintiff's claim is against the defendant as public officer of the \_\_\_\_\_ Bank, for

The plaintiff's claim is against the defendant, A. B., as principal, and against the defendant, C. D., as public officer, of the \_\_\_\_\_ Bank, as surety, for

The plaintiff's claim is against the defendant as heir-at-law of A. B., deceased.  
The plaintiff's claim is against the defendant, C. D., as heir-at-law, and against the defendant, B. F., as devisee, of lands under the will of A. B.

By husband  
and wife-  
executrix.

Trustee.

Public officer.

Heir and  
devisee.

## F.—MISCELLANEOUS

No. 116.

Section 58 of the Code of Civil Procedure.

Court of the                      of                      holden at  
 Registrar of Civil Suits in the year 18

Date of presentation of plaint.		No. of Suit.		PLAINTIFF.			DEFENDANT.			CLAIM.		APPEARANCE.		JUDGMENT.		APPEAL.		EXECUTION.			RETURN OF EXECUTION.		
Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for parties to appear.	Plaintiff.	Defendant.	Value.	For whom or amount.	Date of Appeal.	Judgment in Appeal.	Date of application.	Date of Order.	Against whom.	For what, and amount if money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than payment of Arrest, and date of every Return.

No. 117.

## SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

To

dwelling at

WHEREAS

has instituted a suit against you for  
you are hereby summoned to appear in this Court in person  
or by a duly authorized Pleader of the Court, duly instructed,  
and able to answer all material questions relating to the  
suit, or who shall be accompanied by some other person able  
to answer all such questions, on the

day of 18, at o'clock  
in the forenoon, to answer the above-named plaintiff; and  
as the day fixed for your appearance is appointed for the  
final disposal of the suit, you must be prepared to produce  
all your witnesses on that day; and you are hereby required  
to take notice that, in default of your appearance on the day  
before mentioned, the suit will be heard and determined in  
your absence; and you will bring with you, or send by your  
Pleader, which the  
plaintiff desires to inspect, and any documents on which you  
intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this  
day of 18

L. S.

Judge.

Notice.—1 Should you apprehend your witnesses will not attend of  
their own accord, you can have subpoenas from this  
Court to compel the attendance of any witness, and the  
production of any document that you have a right to  
call upon the witness to produce, on applying to the  
Court at any time before the trial, on your depositing  
their necessary subsistence-money.  
2 If you admit the demand, you should pay the money into  
Court with the costs of the suit, to avoid the summary  
execution of the decree, which may be against your  
person or property, or both, if necessary.

NOTE.—If written statements are required, say—You are (or such a party is, as the case may be)  
required to put in a written statement by the day of

No. 118.

## SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

To

dwelling at

WHEREAS

has instituted a suit against you for  
you are hereby summoned to appear in this Court in person  
or by a duly authorized Pleader of the Court, duly  
instructed, and able to answer all material questions  
relating to the suit, or who shall be accompanied by some  
other person able to answer all such questions, on  
the day of 18, at o'clock in the  
forenoon, to answer the above-named plaintiff; and you are  
hereby required to take notice that, in default of your  
appearance on the day before mentioned, the issues will be  
settled in your absence; and you will bring with you, or send  
by your Pleader, which the plaintiff desires  
to inspect, and any document on which you intend to rely  
in support of your defence.

GIVEN under my hand and the seal of the Court this  
day of 18

L. S.

Judge.

Notice.—1 Should you apprehend your witnesses will not  
attend of their own accord, you can have  
subpoenas from this Court to compel the attend-  
ance of any witness, and the production of  
any document that you have a right to call on  
the witness to produce, on applying to the Court  
at any time before the trial, on your depositing  
their necessary subsistence-money.  
2 If you admit the demand, you should pay the  
money into Court with the costs of the suit,  
to avoid the summary execution of the decree,  
which may be against your person or property,  
or both, if necessary.

NOTE.—If written statements are required, say—You are (or such a party is, as the case may be)  
required to put in a written statement by the day of

No. 119.

## SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure.

## NO. OF SUIT.

IN THE COURT OF

AT

Plaintiff.

Defendant.

To

(Name, description and address.)

WHEREAS [here enter the name, description and address of the plaintiff] has instituted a suit in this Court against you [here state the particulars of the claim in the register]; you are hereby summoned to appear in this Court in person on the day of at in the forenoon [If not specially required to appear in person, state "in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"] to answer the above-named plaintiff. [If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

No. 120.

## ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

The

day of

18

WHEREAS it is stated in the plaint that the defendant in the above suit is at present residing in but that the right to sue accrued within the jurisdiction of this Court; it is ordered that a summons returnable on the day of 18 be forwarded for service on the said defendant, to the Court of with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

## TO ACCOMPANY RETURN OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Miscellaneous No.

of 18

The

day of

18

A. B. of

against

C. D. of

Read proceeding from the  
for service on

forwarding  
it

Civil No.

of that Court.

Read bailiff's endorsement on the back of the process stating that the and proof of the above having been duly taken by me on the [oath or] affirmation of



be returned to the

and

it is ordered that the  
with a copy of this proceeding.

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 122.

#### DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure.

(Title.)

I, the undersigned defendant [or one of the defendants], disclaim all interest under the will of the said *E. F.* in the plaint named [or, as heir-at-law of, or, as next-of-kin, or one of the next-of-kin, of *E. F.*, deceased, in the said plaint named].

Or, I the undersigned defendant state, that I admit [or deny] [here repeat in the language of the plaint the statements admitted or denied].

Or, I the undersigned defendant submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [or, that it appears upon the said plaint that I am jointly liable with one *E. F.*, who is not a party to the suit, and not severally liable as by the plaint appears, or, that it appears by the said plaint that *G. H.* should have been a joint plaintiff with the said *A. B.* in the said suit, or, as the case may be].

Or, that the plaintiff has conveyed [or assigned] his interest in the said mortgage [or equity of redemption] to one *I. J.* [or, that I have conveyed or assigned to *H. L.* by way of further charge for securing the sum of Rs. , the equity of redemption in the property sought by the suit to be foreclosed].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership trading [or, as the case may be].

(Signed) C. D.,  
Defendant.

No. 123.

#### INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B.

against

C. D., E. F. and G. H.

Interrogatories on behalf of the above-named *A. B.* [or *C. D.*] for the examination of the above-named [*E. F.* and *G. H.*, or *A. B.*].

1. Did not &c.

2. Has not &c.

The defendant *E. F.* is required to answer the interrogatories numbered

The defendant *G. H.* is required to answer the interrogatories numbered

No. 124.

## FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B.

against

C. D.

Take notice that the plaintiff [or defendant] requires you to produce for his inspection the following documents referred to in your plaint [or written statement, or affidavit] dated the day of 18

Describe documents required.

X. Y. Pleader for the plaintiff [or the defendant]

To Z.

Pleader for the defendant [or plaintiff].

No. 125.

## SUBPENA.

Section 159 of the Code of Civil Procedure.

(Title.)

To

WHEREAS your attendance is required to on behalf of the in the above cause, you are hereby required [personally to appear before this Court] on the day of 18, at the hour of A. M. [and] to bring with you or to send to this Court

A sum of Rs. , being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you do not comply with this order, you will be subject to the consequence of non-attendance laid down in the Code of Civil Procedure, section 159.

Notice—(1). If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2). If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to you for each day's attendance beyond the day specified.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 126.

## SUMMONS TO ATTEND AND GIVE EVIDENCE.

Section 163 of the Code of Civil Procedure.

NO. OF SUIT.

IN THE COURT OF

AT

Plaintiff.

Defendant.

To

(Name, description and address.)

You are hereby summoned to appear in this Court in person on the day of at in the forenoon, to give evidence on behalf of the plaintiff [or the defendant] in the above-mentioned suit, and to produce [have describe with convenient certainty any document the production of which may be required. If the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly] and you are not to depart thence without the leave of the Court.

## FORMS OF DECREES.

No. 127.

## SIMPLE MONEY-DECREE.

(Title.)

Claim for

This cause coming on for final disposal before in the presence of on the part of the plaintiff, and on the part of the defendant, it is ordered that the do pay to the sum of Rs. with interest thereon at the rate of the per cent. to the date of realization of the said sum, and do also pay to the the costs of this suit as taxed by the officer of the Court, with interest thereon at the rate aforesaid from the date of taxation to the date of realization.

Costs of suit.

PLAINTIFF.				DEFENDANT.			
	Rs.	A.	P.		Rs.	A.	P.
1. Stamp for plaint	...			Stamp for power	...		
2. Do. for power	...			Do. petition	...		
3. Do. exhibits	...			Pleader's fee	...		
4. Pleader's fees on Rs.	...			Subsistence for witnesses	...		
5. Translation fee	...			Service of process	...		
6. Subsistence for witness	...			Translation fee	...		
for attendance	...			Commissioner's fee	...		
7. Commissioner's fee	...						
8. Service of process	...						
9. &c.	...						
TOTAL	...			TOTAL	...		

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 128.

## DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(Title.)

It is ordered that it be referred to the Registrar [or Taxing Officer] to take an account of what is due to the plaintiff for principal and interest on the mortgage [or lien] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the Registrar do certify to the Court on the day of what he shall find to be due for principal and interest as aforesaid, and for costs; And upon the defendant paying into Court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months after the Registrar [or Taxing Officer] shall have presented his certificate; it is ordered that the plaintiff do reconvey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under him, and do deliver up to the Registrar [or Taxing Officer] all deeds and writings in his custody or power relating thereto, and that upon such reconveyance being made, and deeds and writings being delivered up, the Registrar [or Taxing Officer] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest and costs; but in default of the defendant paying into Court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [or the premises subject to the said lien] be sold with the approbation of the Registrar [or Taxing Officer]. And it is ordered that the money to arise by such sale be paid into Court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant.

No. 129.

## FINAL DECREE FOR FORECLOSURE.

(Title.)

Whereas it appears to the Court that the defendant has not paid into Court the sum which was on the day of last certified by the Registrar to be due to the Plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in this suit on the

the said day of last, and that the period of six months has elapsed since day of  
 It is ordered that the Defendant do stand absolutely debarr'd and foreclosed of and from all equity of redemption of, in, and to, the said mortgaged premises.

No. 130.

## PRELIMINARY ORDER—ADMINISTRATION SUIT.

Section 213 of the Code of Civil Procedure.

(Title.)

It is ordered that the following accounts and inquiries be taken and made; that is to say:—

*In creditor's suit—*

1. That an account be taken of what is due to the Plaintiff and all other the creditors of the deceased.

*In suits by legatee—*

2. An account be taken of the legacies given by the testator's will.

*In suits by next-of-kin—*

An inquiry be made and account taken of what, or of what share, if any, the plaintiff entitled to as next-of-kin [or one of the next-of-kin] of the intestate.

[After the first paragraph, the Order will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, devisees, heirs-at-law, and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the Defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered, that the Defendant do, on or before the day of next, pay into Court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the Registrar shall find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into Court.

8. And that Mr. E. F. be Receiver in the suit [or proceeding], and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar [and shall give security by bond for the due performance of his duties to the amount of rupees].

9. And it is further ordered, that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say,—

(a) an inquiry what immovable property the deceased was seized of or entitled to at the time of his death;

(b) an inquiry what are the incumbrances (if any) affecting the immovable property of the deceased, or any part thereof;

(c) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immovable property of the deceased, or so much thereof as shall be necessary to make up the fund in Court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered, that G. H. shall have the conduct of the sale of the immovable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered, that, for the purpose of the inquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of and that the Registrar do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

14. And, lastly, it is ordered, that this suit [or matter] stand adjourned for making final decree to the day of

[Such part only of this order is to be used as is applicable to the particular case.]

## No. 131.

## FINAL DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE.

## Section 213 of the Code of Civil Procedure.

1. It is ordered that the defendant do on or before the day of pay into Court the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the estate of , the testator, and also the sum of Rs. for interest, at the rate of Rs. per centum per annum, from the day of to the day of amounting together to the sum of Rs. .

2. Let the Registrar [or Taxing Officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rs. ordered to be paid into Court as aforesaid, as follows:—

(a.)—The costs of the plaintiff to Mr. , his attorney [or pleader], and the costs of the defendant to Mr. , his attorney [or pleader].

(b.)—And (if any debts are due), with the residue of the said sum of Rs. after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid; and after making such payments, let this amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.

3. And if there should then be any residue, let the same be paid to the residuary legatee.

## DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

## Section 213 of the Code of Civil Procedure.

1. Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff;

2. And it is ordered, that an account be taken of what is due for principal and interest on the said legacy;

3. And it is also ordered, that the defendant do within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest;

4. And it is ordered, that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ.

## FINAL DECREE IN AN ADMINISTRATION SUIT BY NEXT-OF-KIN.

## Section 213 of the Code of Civil Procedure.

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of E. F., the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.

2. And it is ordered, that the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, be paid and applied by defendant as follows:—

(a.)—Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs, A. B., and C., his wife, in her right, as the sister and one of the next-of-kin of the said E. F., the intestate.

(b.)—Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next-of-kin of the said E. F., the intestate.

(c.)—And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the remaining one-third share of the said residue to G. H., as the brother and the other next-of-kin of the said E. F., the intestate.

## No. 132.

## ORDER—DISSOLUTION OF PARTNERSHIP.

## Section 214 of the Code of Civil Procedure.

(Title.)

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the Gazette, &c.

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property and effects now belonging to the said partnership;

2. An account of the debts and liabilities of the said partnership;  
 3. An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the good will of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken and all the other acts required to be done be completed before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of .

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of .

No. 133.

## PARTNERSHIP. FINAL DECREE.

Section 214 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

A. B. of

against

C. D. of

It is ordered that the fund now in Court, amounting to the sum of Rs. be applied as follows:—

1. In payment of the debts due by the partnership set forth in the Registrar's certificate amounting in the whole to Rs.

2. In payment of the costs of all parties in this suit, amounting to Rs. [These costs must be ascertained before the decree is drawn up].

3. In payment of the sum of Rs. to the Plaintiff as his share of the partnership-assets, of the sum of Rs. being the residue of the said sum of Rs. now in Court to the Defendant as his share of the partnership-assets.

[Or, And that ainder of the said sum of Rs. be paid to the said Plaintiff (or Defendant) in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts.

And that the defendant (or plaintiff) do on or before the day of pay to the plaintiff (or defendant) the sum of Rs. being the balance of the said sum of Rs. due to him, which will then remain due].

No. 134.

## NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

Miscellaneous No.

of 18

A. B. of

against

C. D. of

To

WHEREAS

has made application to this Court for execution of decree in Civil Regular No. 18, this is to give you notice that you are to appear before this Court on the day of 18, either in person or by a Pleader of this Court, or agent duly authorized and instructed to show cause, if any, why execution should not be granted.

Given under my hand and the seal of the Court, this day of 18.

L. S.

Judge.



No. 135.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANTS POSSESSION IN  
EXECUTION OF A DECREE FOR MONEY.

Section 255 of the Code of Civil Procedure.

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, was ordered, by decree of this Court, passed \_\_\_\_\_ 18\_\_\_\_, in Regular Suit No. \_\_\_\_\_ of \_\_\_\_\_, to pay to the plaintiff the sum of Rs. \_\_\_\_\_ as noted in the margin; and whereas the said sum of Rs. \_\_\_\_\_ has not been paid

DECREE.			
Principal . . . . .			
Interest . . . . .			
Costs . . . . .			
Costs of decree . . . . .			
Interest thereon . . . . .			
Total of attachment . . . . .			
Total . . . . .			

THESE ARE TO COMMAND YOU to attach the moveable property of the said \_\_\_\_\_ as set forth in the list hereunto annexed, or which shall be pointed out to you by the said \_\_\_\_\_, and unless the said \_\_\_\_\_ shall pay to you the said sum of Rs. \_\_\_\_\_ together with Rs. \_\_\_\_\_, the costs of this attachment, to hold the same until further orders from this Court.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.

SCHEDULE

L. S.

Judge.

No. 136.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &c.

Section 263 of the Code of Civil Procedure.

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS \_\_\_\_\_, in the occupancy of \_\_\_\_\_, has been decreed to \_\_\_\_\_, the plaintiff in this suit; you are hereby directed to put the said \_\_\_\_\_ in possession of the same, and you are hereby authorized to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.

L. S.

Judge.

No. 137.

ORDER FOR COMMITTAL FOR REMITTING, &c., EXECUTION OF DECREE FOR LAND.

Section 320 of the Code of Civil Procedure.

(Title.)

To \_\_\_\_\_

WHEREAS it appears to the Court that \_\_\_\_\_ has without just cause resisted (or obstructed) the execution of the decree of the Court

passed against  
in Civil Regular Suit, No. of 18 on the day of 18  
was adjudged to whereby certain land or immoveable property  
be committed to custody for a period of days.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure.

(Title.)

To

WHEREAS  
has failed to satisfy a decree passed against on the day of  
18 in favour of for Ra. it is ordered that the Defendant  
be, and is hereby, prohibited and restrained, until the further order of this Court, from  
receiving from the following property in the possession of the said  
that is to say, to which the defendant is  
entitled, subject to any claim of the said, and the said is hereby  
prohibited and restrained, until the further order of this Court, from delivering the said  
property to any person or persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 268 of the Code of Civil Procedure.

(Title.)

To

WHEREAS  
has failed to satisfy a decree passed against on the day of  
18 in Civil Regular No. of 18 in favour of  
for Ra. it is ordered that the defendant be, and  
hereby, prohibited and restrained, until the further order of this Court, from receiving from you  
a certain debt alleged now to be due from you to the said defendant, namely,  
and that you, the said  
be, and you are hereby, prohibited and restrained, until the  
further order of this Court, from making payment of the said debt, or any part thereof, to  
any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 140.

## ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &amp;c.

Section 268 of the Code of Civil Procedure.

(Title.)

To

Defendant, and to

Company

, Manager of

has failed

WHEREAS to satisfy a decree passed against on the day of 18 in Civil Regular No. of 18 in favour of for Rs. it is ordered that you, the defendant, be, and you are hereby, prohibited and restrained, until the further order of this Court, from making any transfer of the aforesaid Company, namely, shares in or from receiving payment of any dividends thereof; and you the manager of the said Company, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 141.

## ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVABLE PROPERTY.

Section 274 of the Code of Civil Procedure.

(Title.)

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the day of 18 in Civil Regular suit No. of 18 in favour of for Rs. it is ordered that you, the said be, and you are hereby, prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 142.

## ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

Sections 272 and 466 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

To

SIR,

THE plaintiff having applied, under section of the Code of Civil Procedure, for an attachment of certain money now in your hands (here state how the money is supposed

to be in the hands of the person addressed, on what account, &c.), I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,

SIR,

Your most obedient Servant,

L. S.

Dated the                      day of                      18                      Judge.

No. 143.

**ORDER FOR PAYMENT TO THE PLAINTIFF, &c., OF MONEY, &c., IN THE HANDS OF A THIRD PARTY.**

Section 277 of the Code of Civil Procedure.

IN THE COURT OF                      AT

Civil Regular No.                      of 18

Miscellaneous No.                      of 18

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT AND TO

WHEREAS the following property in execution of a decree in Civil Regular No.                      of                      18                      has been attached  
18                      in favour of                      for Rs.                      : it is ordered  
that the property so attached, consisting of Rs.                      in money, and Rs.                      in  
Bank Notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you  
the said                      to                      and that the said property, so far as  
may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of  
the Court, by public auction in the manner prescribed for sale in execution of decrees, and  
that the money which may be realized by such sale, or a sufficient part thereof to satisfy the  
said decree, shall be paid over to the said                      , and the remainder, if any, shall  
be paid to you, the said

GIVEN under my hand and the seal of the Court, this                      day of                      18

L. S.

Judge.

No. 144.

**APPOINTMENT OF A MANAGER.**

Section 603 of the Code of Civil Procedure.

IN THE COURT OF                      AT

Civil Regular No.                      of 18

A. B. of

against

C. D. of

To

WHEREAS                      has been attached in execution of a  
decree passed in the above suit on the                      day of                      18                      , in  
favour of                      : you are hereby (subject to your giving security to the satisfaction of  
the Registrar) appointed Manager of the said property under section 269 of the Code of  
Civil Procedure, with full powers under the provisions of that section.

You are required to render a due and proper account of your receipts and disbursements  
in respect of the said property on                      . You will be entitled to remuneration  
at the rate of                      per cent. upon your receipts under the authority of this appoint-  
ment.

GIVEN under my hand and the seal of the Court, this                      day of                      18

L. S.

Judge.

No. 145.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND ON SECURITIES  
BEING GIVEN.

Section 325 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

To

Collector of

SIR,

In answer to your communication No. , dated , represent-  
ing that the sale in execution of decree in this suit of  
land, lying within your district, paying revenue to Government, is objectionable, I have the  
honour to inform you that you are authorized, on security to the amount of Rs.  
decreed to the in the above suit, being given to your satisfaction, to  
make provision for the satisfaction of the said decree in the manner recommended by you  
instead of proceeding to a public sale of

I have the honour to be,

SIR,

Your obedient Servant,

L. S.

Judge.

No. 146.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

Section 287 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

Miscellaneous No. of 18

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

THESE ARE TO COMMAND YOU to sell by auction, after giving  
days' previous notice, by affixing the same in this Court-house, and after making due pro-  
clamation,\* the right, title and interest of in and to the  
property attached under a Warrant from this Court  
dated the of 18 in execution of a decree  
in favour of in suit No. of 18 or  
so much of the said property as shall realize the sum of Rs. , being the  
of the said decree and costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of  
18 with an endorsement certifying the manner in which it has been  
executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

\* This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed  
should the property consist of land paying revenue to Government, and the amount for the recovery of which the  
sale is ordered, you shall also declare that the sale extends only to the right, title and interest of the defendant in  
the property specified therein.

No. 147.

## ORDER CONFIRMING SALE OF LAND, &amp;c.

Section 312 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

WHEREAS the right, title and interest of  
in the following land (or immoveable property) was on the      day of  
18      sold by the Bailiff of this Court in execution of the decree in this suit, and where-  
thirty days have elapsed and no application has been made (or objection allowed) to the said  
sale, it is ordered that the said sale be, and the said sale is hereby, confirmed.

GIVEN under my hand and the seal of the Court, this      day of      18

SCHEDULE

L. S.

Judge.

No. 148.

## CERTIFICATE OF SALE OF LAND.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

THIS is to certify that  
at a sale by public auction on the      day of      18      of      the  
right, title and interest of      in      has been declared the purchaser  
in execution of decree in this suit, and that the said sale has been duly confirmed by the  
Court.

GIVEN under my hand and the seal of the Court, this      day of      18

L. S.

Judge.

No. 149.

## NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

To

WHEREAS  
has been the purchaser at a sale by auction in execution of the decree in the above suit of  
now in your possession, you are  
hereby prohibited from delivering possession of the said  
to any persons except the said

GIVEN under my hand and the seal of the Court, this      day of      18

L. S.

Judge.



No. 150.

## ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

Section 318 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has become the certified purchaser of  
 at a sale in execution of decree in Civil Regular No.  
 of 18, and whereas such land is in the possession of you  
 are hereby ordered to put the said the certified purchaser, as  
 aforesaid, into possession of the said  
 and if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 151.

## PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

To

and to

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of  
 certain debt due from you  
 to you, that is to say, it is ordered that  
 you be and you are hereby prohibited from receiving, and you  
 from making payment of, the said debt to any person or persons except the said

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 152.

## PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

To

and

Manager of

Company.

WHEREAS has become the purchaser at a public sale in execu-  
 tion of the decree in the above suit of certain shares in the above Company, that is to say  
 of



No. 155.

## NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

Miscellaneous No. of 18

A. B. of

against

C. D. of

To

WHEREAS

has made application to this

Court for the removal of attachment on

placed at your instance in execution of the decree in Civil Regular No. of 18

this is to give you notice to appear before this Court on

day of

18

the

either in person or by

a Pleader of the Court duly instructed, to support your claim as attaching creditor.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 156.

## NOTICE OF PAYMENT INTO COURT.

IN THE

187

B. No.

A. B. v. C. D.

TAKEN notice that the defendant has paid into Court Rs. and says that that sum is enough to satisfy the plaintiff's claim [or the plaintiff's claim for, &c.].

To Mr. X. Z.,

the Plaintiff's Pleader,

Z.,

Defendant's Pleader.

No. 157.

## COMMISSION TO EXAMINE ABSENT WITNESSES.

Section 386 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

To

WHEREAS the evidence of in the above suit; and whereas

is required by the

you are requested to take the examination on interrogatories [or viva voce] of such witnesses and you are hereby appointed a Commissioner for that purpose, and you are further requested to make return of such examination so soon as it may be taken [Process to require the attendance of the witness will be issued by this Court on your application.]\*

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

\* Not necessary where the commission goes to another Court.

No. 158.

## COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.

Sections 392 and 395 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

To

WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for should be issued; you are hereby appointed Commissioner for the purpose of [process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on your application.]\*

A sum of Rs. , being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

\* Not necessary where the commission goes to another Court.

No. 159.

## WARRANT OF ARREST BEFORE JUDGMENT.

Section 478 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS the plaintiff in the above suit, has proved to the satisfaction of the Court that there is probable cause for believing that the defendant is about to the said these are to command you to take the said into custody, and to bring before the Court, in order that he may show cause why he should not furnish security to the amount of rupees for personal appearance before the Court, until such time as the said suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed against in the suit.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 160.

## ORDER FOR COMMITTAL.

Section 481 of the

Civil Procedure.

IN THE COURT OF

AT

Civil Regular No. of 18

A. B. of

against

C. D. of

To

WHEREAS Plaintiff in this suit has made application to the Court that security be taken for the appearance of the Defendant to answer any judgment that may be passed against in the suit; and whereas the Court has called upon the Defendant to furnish such security, or to offer a sufficient deposit in lieu of

security, which

judgment be given against

GIVEN under my hand and the seal of the Court, this

has failed to do; it is ordered that the said Defendant  
be committed to custody until the decision of the suit; or if  
until the execution of the decree.

day of 18

L. S.

Judge.

No. 161.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR  
FULFILMENT OF DECREE.

Section 484 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

To THE BAILIFF OF THE COURT.

WHEREAS

to the satisfaction of the Court that the Defendant in the above suit  
these are to command you to call upon the said Defendant

has proved

on or before the

day of

either to

furnish security for the sum of rupees

to produce and place at the disposal

of this Court when required

or the value thereof, or such portion of the value as may be sufficient to fulfil any decree  
that may be passed against or to appear and show cause why

should not furnish security; and you are further ordered to attach the said  
and keep the same under safe and secure custody until the further order of the Court, and  
in what manner you shall have executed this warrant make appear to the Court immediately  
after the execution hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this

day of

18

L. S.

Judge.

No. 162.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

To THE BAILIFF OF THE COURT.

WHEREAS

call upon  
may be passed against  
the said

, the Plaintiff in this suit, has applied to the Court to  
the Defendant, to furnish security to fulfil any decree that  
in the suit, and whereas the Court has called upon  
to furnish such security which has failed to do

; these are to command you to attach

the property of

the said

and keep the same under

safe and secure custody until the further order of the Court, and in what manner you shall  
have executed this warrant make appear to this Court immediately after the execution  
hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this

day of

18

L. S.

Judge.

No. 163.

## ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

To

Defendant.

It is ordered that you the said  
you are hereby, prohibited and restrained until the further order of this Court from receiving  
from the said the following property in the possession of  
to which the defendant is entitled, subject to any claim of the said that is to say  
and the said is hereby prohibited and restrained, until the  
further order of this Court, from delivering the said property to any persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 164.

## ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVABLE PROPERTY.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

Defendant.

It is ordered that you the said  
and restrained, until the further order of this Court, from alienating the property specified  
in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and  
that they are hereby, prohibited from receiving the same by purchase, gift or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 165.

## ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS, OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of

against

C. D. of

To

be, and he i

It is ordered that the defendant  
heroby, prohibited and restrained, until the further order of this Court, from receiving  
from the [ money now in

hands belonging to the said defendant or debts, *as the case may be,*  
*describing them* ] and that the said *be and*  
 hereby prohibited and restrained, until the further order of this Court,  
 from making payment of the said [money, &c.], or any part thereof, to any person  
 whomsoever.

GIVEN under my hand and the seal of the Court, this      day of      18      .

L. S.

Judge.

No. 166.

#### ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC  
 COMPANY, &c.

Section 496 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of 18

A. B. of  
 against  
 C. D. of

To

Defendant and

to

Manager of

Company.

It is ordered that  
 be and      hereby prohibited and restrained, until  
 the further order of the Court, from making any transfer of      shares  
 being      in the aforesaid Company,  
 or from receiving payment of any dividends thereof, and you  
 Manager of the said Company, are hereby prohibited and restrained from permitting any  
 such transfer, or making any such payment.

GIVEN under my hand and the seal of the Court, this      day of      18      .

L. S.

Judge.

No. 167.

#### TEMPORARY INJUNCTIONS.

Section 492 of the Code of Civil Procedure.

Upon motion made unto this Court by      Pleader of (or Counsel for) the  
 plaintiff A. B., and upon reading the petition of the said plaintiff in this matter filed (this  
 day) [or the plaint filed in this cause on the      day of      , or the written  
 statement of the said plaintiff filed on the      day of      ] and upon  
 hearing the evidence of      and      in  
 support thereof, [if after notice and defendant not appearing, add, and also the evidence  
 of      as to service of notice of this motion upon the  
 defendant C. D.] This Court doth order that an injunction be awarded to restrain the  
 defendant C. D., his servants, workmen and agents from pulling down, or suffering to  
 be pulled down the house in the plaint in the said suit of the plaintiff mentioned [or in the  
 written statement or petition of the plaintiff and evidence at the hearing of this motion  
 mentioned] being No. 9, Oilmongers Street, Hindupur, in the Taluq of  
 and from selling the materials whereof the said house is composed, until the hearing of this  
 cause or until the further order of this Court.

Dated this      day of      187      .

Civil Judge.

[Where the injunction is sought to restrain the negotiation of a bill, note or security,  
 the ordering part of the order may run thus:—]      to restrain the  
 defendants      and      from parting with out of  
 the custody of them or any of them, or endorsing, assigning or negotiating the promissory  
 note in question, dated on or about the      &c., mentioned in  
 the plaintiff's plaint [or petition] and the evidence heard at this motion, until the hearing  
 of this cause, or until the further order of this Court.



[ *In copyright cases* ] to restrain the defendant, C. D., his servants, agents, or workmen from printing, publishing, or vending a book, called , or any part thereof, until the, &c.

[ *Where part only of a book is to be restrained* ] to restrain the defendant, C. D., his servants, agents, or workmen, from printing, publishing, selling, or otherwise disposing of such parts of the book in the plaint [or petition and evidence, &c.] mentioned to have been published by the defendant as hereinafter specified, namely, that part of the said book which is entitled and also that part which is entitled (or which is contained in p. both inclusive) until the, &c.

[ *In patent cases* ] to restrain the defendant, C. D., his agents, servants and workmen, from making or vending any perforated bricks (or, as the case may be) upon the principle of the inventions in the plaintiff's plaint [or petition, &c., or written statement, &c.] mentioned, belonging to the plaintiff, or either of them, during the remainder of the respective terms of the patents in the plaintiff's plaint (or, as the case may be) mentioned, and from counterfeiting, imitating or resembling the same inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, &c.

[ *In cases of trade-marks* ] to restrain the defendant, C. D., his servants, agents or workmen, from selling, or exposing for sale, or procuring to be sold, any composition or blacking (or, as the case may be) described as or purporting to be blacking manufactured by the plaintiff, A. B., in bottles having affixed thereto such labels as in the plaintiff's plaint [or petition, &c.] mentioned, or any other labels so contrived or expressed as, by colorable imitation or otherwise, to represent the composition or blacking sold by the defendant to be the same as the composition or blacking manufactured and sold by the plaintiff, A. B., and from using trade-cards so contrived or expressed as to represent that any composition or blacking sold or proposed to be sold by the defendant is the same as the composition or blacking manufactured or sold by the plaintiff, A. B., until the, &c.

[ *To restrain a partner from in any way, interfering in the business* ] to restrain the defendant, C. D., his agents and servants, from entering into any contract, and from accepting, drawing, endorsing or negotiating any bill of exchange, note or written security, in the name of the partnership firm of B. & D., and from contracting any debt, buying and selling any goods, and from making or entering into any verbal or written promise, agreement or undertaking, and from doing or causing to be done, any act, in the name or on the credit of the said partnership firm of B. & D., or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sum of money, or for the performance of any contract, promise or undertaking, until the, &c.

No. 168.

## NOTICE OF APPLICATION FOR INJUNCTION.

Section 494 of the Code of Civil Procedure.

IN THE COURT OF

AT

A. B. of

against

C. D. of

Take notice that I, A. B., intend to apply at the sitting of the Court at aforesaid, on the day of for an injunction to restrain C. D. from further prosecuting a suit which he has commenced against me in to recover damages for the breach of the contract for the specific performance of which this suit was commenced [or to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding up of which the suit was commenced, or from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this suit is commenced to enforce, or, as the case may be].

Dated this day of

18

To C. D.

A. B.

[ *N. B.—Where the injunction is to be applied for against a party whose name and address does not appear upon any proceeding already filed in the suit, it must be stated in full to enable the proper officer to serve the notice.* ]

No. 169.

## BOND TO BE GIVEN BY RECEIVER.

Section 508 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Regular No.

of

A. B. of

against

C. D. of

Know all men by these presents, that we, A. B. of, &c., and C. D. of, &c., and B. F. of, &c., are jointly and severally bound to G. H., Registrar of the Court of

in Rs. , to be paid to the said G. H. or his attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.

Dated this      day of      one thousand eight hundred and

And whereas a plaint has been filed in this Court by A. B. against C. D. for the purpose of (*here insert object of suit*).

And whereas the said A. B. has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immoveable property, and to get in the outstanding moveable property of C. D., the testator in the said plaint named.

Now the condition of this obligation is such, that if the above-bonded A. B. shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immoveable property, and in respect of the moveable property of the said C. D. [*or, as may be*] at such periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

A. B. (L. S.)

C. D. (L. S.)

Signed, and delivered by the above-bonded in the presence of

NOTE.—*If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.*

#### No. 170.

#### ORDER OF REFERENCE TO ARBITRATION UNDER AGREEMENT OF PARTIES.

Section 508 of the Code of Civil Procedure.

(Title.)

To

WHEREAS the above-mentioned plaintiff and defendant have agreed to refer the matters in difference between them in the above suit to your arbitration and award, you are hereby appointed      accordingly to determine all the said matters in difference between the parties, and with power, by consent of the parties, to determine which party shall pay the costs of this reference.

You are required to deliver your award in writing to this Court on or before the      day of      18      , or such other day as this Court may further fix.

Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on our application, and you are empowered to administer to such witnesses oath or affirmation.

A sum of Rs.      , being your fee in the above suit, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this      day of      18     

L. S.

Judge.

#### No. 171.

#### ORDER OF REFERENCE TO ARBITRATION BY COURT, WITH CONSENT.

Section 508 of the Code of Civil Procedure.

(Title.)

UPON reading a petition of the plaintiff, filed this day, and on the consent of      for the defendant, and upon hearing      for the plaintiff and      for the defendant, it is ordered, by and with the consent of all the parties, that all matters in difference in this suit, including all dealings and transactions between all parties, be referred to the final determination of

his award in writing and submit the same to this Court, together with all proceedings, depositions, and exhibits in this suit, within one month from the date hereof. And it is ordered further, by and with the like consent, that the said arbitrator is to be at liberty to examine the parties and their witnesses upon oath or affirmation, which he is empowered to administer, and that the said arbitrator shall have all such powers or authorities as are vested in arbitrators under the Code of Civil Procedure, including therein power to call for all books of account that he may consider necessary. And it is further ordered, by and with the like consent, that the costs of this suit, together with the costs of reference to arbitration, up to and including the award of the said arbitrator, and the enforcement thereof, do abide

the result of the finding of the said arbitrator. And it is further ordered, by, and with the like consent, that the said arbitrator be at liberty to appoint a competent accountant to assist him in the investigation of the several matters referred to him as aforesaid, and that the remuneration of such accountant and other charges attending thereto be in the discretion of the said arbitrator.

GIVEN under my hand and the seal of the Court, this      day of      18

L. S.

Judge

No 172.

SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT.

Section 532 of the Code of Civil Procedure.

No. OF SUIT.

IN THE HIGH COURT OF

AT

Plaintiff.

Defendant.

To      [ Here enter the defendant's name, description and address. ]

Whereas [ here enter the plaintiff's name, description and address ] has instituted a suit in this Court against you under Chapter XLII of the Code of Civil Procedure for Rs.

principal and interest [ or Rs.      balance of principal and interest ] due to him as the payee [ or indorsee ] of a bill of exchange [ or hundi or promissory note ], of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs.      [ here state the sum claimed ] and the sum of Rs.      for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[ Here copy the bill of exchange, hundi or promissory note, and all endorsements upon it. ]

No. 173.

MEMORANDUM OF APPEAL.

Section 540 of the Code of Civil Procedure.

MEMORANDUM OF APPEAL.

(Name, &c., as in Register.) Plaintiff—Appellant.

(Name, &c., as in Register.) Defendant—Respondent.

[ Name of Appellant ] [ plaintiff or defendant ] above-named appeals to the High Court at [ or District Court at      ], as the case may be, against the decree of      in the above suit, dated the      day of      , for the following reasons, namely [ here state the grounds of objection ].



No. 175.

## NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

Section 553 of the Code of Civil Procedure.

IN THE COURT OF

AT

Appellant, v.

Respondent.

APPEAL from the

dated the                      of the Court of  
day of

18

To

Respondent.

Take notice that an appeal from the decree of  
in this case has been presented byday of                      18                      and registered in this Court, and that the  
has been fixed by this Court for the hearing of this appeal.If no appearance is made on your behalf by yourself, your pleader, or by some one by  
law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your  
absence.

GIVEN under my hand and the seal of the Court, this

day of                      18

L. S.

Judge.

NOTE.—If a stay of execution has been ordered, intimation should be given of the fact  
on this notice.]

No. 176.

## DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure.

IN THE COURT OF

AT

Appellant, v.

Respondent

Appeal from the

of the Court of                      dated the  
day of                      18

Memorandum of Appeal.

Plaintiff.

Defendant.

Plaintiff [or defendant] above-named appeals to the                      Court at  
against the decree of                      in the above suit, dated the  
day of                      18                      for the following reasons, namely :

[here state the reasons]

This appeal coming on for hearing on the                      day of                      18  
before                      in the presence of                      for the Respondent, it is ordered—  
for the Appellant, and of

[here state the relief granted]

The costs of this appeal, amounting to                      , are to be paid by  
The costs of the original suit are to be paid by

GIVEN under my hand, this                      day of                      18

Judge.

## No. 177.

# REGISTER OF APPEALS FROM APPELLATE DECRIES.

Section 587 of the Code of Civil Procedure.

## HIGH COURT AT

## REGISTER OF APPEALS FROM AFFILIATE DECREES.

[illegible]

No. 178.

## NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

Section 626 of the Code of Civil Procedure.

IN THE COURT OF

AT

, Plaintiff, v.

, Defendant.

To

TAKE notice that  
 a review of its judgment passed on the day of 18 has applied to this Court for  
 case. The day of 18 is fixed for you to show cause why the  
 Court should not grant a review of its judgment in this case.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge

No. 179.

## NOTICE OF CHANGE OF PLEADER.

IN THE COURT OF

AT

A. B. of

against

C. D. of

To the REGISTRAR OF THE COURT.

TAKE notice that I, A. B. [or C. D.], have hitherto employed as my pleader G. H. of  
 in the above-mentioned cause, but that I have ceased to employ him, and  
 that my present pleader is J. K. of

A. B. [or C. D.]

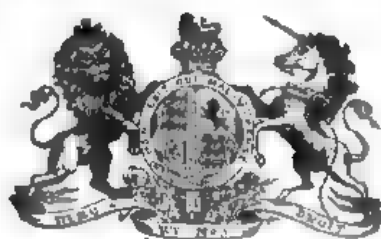
No. 180.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE, OR ORDER  
OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [place of office] from ten till four,  
 except on [here insert the day on which the office will be closed], when the office will be  
 closed at one.

WHITLEY STOKES,

Secy. to the Govt. of India.



# The Calcutta Gazette.

WEDNESDAY, NOVEMBER 15, 1876.

## PART VI.

### Bill of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

*The 30th October 1876.*

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of the President, under the 22nd of the Rules for the Conduct of Business at Meetings of the Council of the Governor-General of India for the purpose of making Laws and Regulations:—

#### CONSOLIDATED CUSTOMS BILL, 1877.

##### ARRANGEMENT OF SECTIONS.

###### PREAMBLE.

###### CHAPTER I. PRELIMINARY.

###### SECTION.

1. Short title.
2. Repeal of enactments.
3. Interpretation.

###### CHAPTER II. GENERAL RULES.

4. Making, issuing and publishing rules.
5. Rules respecting passengers' baggage and mails.

###### SECTION.

Fee for landing baggage.

6. Appeals how and by whom to be adjudicated.

###### CHAPTER III.

###### APPOINTMENT OF OFFICERS, PORTS, WHARVES AND WAREHOUSES.

7. Local Government to appoint necessary officers.  
Suspension and dismissal of such officers.
8. Local Government may delegate its powers under section 7 to Customs authority.  
Suspension and dismissal of Subordinate Officers.
9. Collector of District to perform duties of Customs Officer, where there is no separate Customs Officer.
10. Power to appoint Ports and Wharves for shipment and landing.
11. Power to declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.
12. Power to declare Warehousing Ports and places.  
Existing Ports to continue in use, until otherwise declared.
13. Approval, appointment and licensing of warehouses.



## CHAPTER IV.

## LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

## SECTION.

14. Import Customs.
15. Export Customs.
16. No duties on goods carried from one Indian Port to another not a free Port.  
Proviso as to opium, salt, and spirits.
17. Power to exempt from Customs duties.  
Power to cancel exemption.  
Power to authorize exemption from payment of duty.
18. Baggage in actual use.  
*Transshipment of goods.*
19. Power to permit transshipment with payment of duty.  
Proviso.
20. Rules regulating exercise of power.
21. Levy of transshipment fee.
22. Power to prohibit transshipment.
23. Duty on Opium re-exported by Sea.

## CHAPTER V.

## GENERAL PROVISIONS.

24. Prohibitions and restrictions.
25. Importation without license of arms and ammunition prohibited.  
Proviso.
26. Power to prohibit or restrict importation or exportation of goods.
27. Importation and exportation.
28. Owner, &c., to declare real value of goods in bill of entry or clearance, and if necessary, to produce invoice, &c.  
Assessment of goods liable to duty according to value.
29. Under-valued goods how dealt with.
30. Duties on goods retained under section 29 for use of Government.
31. Date of importation how determined.
32. Date of exportation how determined.
33. Contracts for sale of goods duty on which is raised or lowered before performance.
34. Duty leviable on sea-borne goods duty on which has been altered during transit.
35. Re-imported articles of country produce to be deemed Foreign.  
Proviso.
36. Officer in charge of Custom House may require goods to be weighed or mensured on board before landing.
37. Customs Officer may open package and examine goods shipped.
38. Stations for Customs Officers to board and also land from ship.
39. Power to depute Officer of Customs to board ships.  
Proviso.

## SECTION.

40. Servant to be received with Officer.  
Accommodation of Officer and servant.
41. Officers of Customs to have free access to every part of the ship, and may seal and secure goods.  
Officer in charge of Custom House may authorize search and opening of locks.
42. Goods not to be landed on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.

## CHAPTER VI.

## IMPORTATION.

43. Power to fix places beyond which inward bound vessels are not to proceed until manifest delivered.  
Delivery of manifest when vessel anchors below reporting station.
44. Power to Master of steamer to enter ship's agent as consignee.
45. Duty of person receiving manifest.
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*A Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.*

Whereas it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended; It is enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

1. This Act may be called "The Consolidated Customs Act, 1877."
2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein, except as to any act done, offence committed, or liability incurred.  
All references to any of the said Acts in Acts passed subsequently thereto shall be read as if made to the corresponding provisions of this Act.  
All notifications made, public warehouses appointed, and licenses issued under Act No. VI of 1868 and now in force, shall be deemed to be respectively made, appointed, and issued under this Act.
3. In this Act, unless there be something repugnant in the subject or context—  
  - (a) The words "Chief Customs Authority" denote the persons authorised to exercise, under any Local Government, the chief control in the Department of Customs in any place to which this Act applies.
  - (b) The words "Chief Officer of Customs" denote the Executive Officer of highest rank in the Department of Customs in any Port to which this Act applies.
  - (c) The words "Officer in charge of Custom House" include every officer of customs for the time being in separate charge of a Custom House.
  - (d) The word "Magistrate" includes every officer exercising any of the powers of a Magistrate, and in the Towns of Calcutta, Madras, and Bombay, a Presidency Magistrate.
  - (e) The words "Customs Port" denote any Port at which duties of customs are leviable.
  - (f) The words "Foreign Port" include Aden and any Port not situated in British India.
  - (g) The words "Foreign Goods" include all goods not produced or manufactured in British India.
  - (h) The word "Vessel" includes anything made for the conveyance by water of human beings or property.
  - (i) The words "Coasting Vessel" denote any vessel proceeding from one Customs Port to another Customs Port.

(g) The word "Master" includes every person, except a Pilot, having command or charge of any vessel:

(k) The word "Warehouse" denotes any place approved, appointed, or licensed under this Act for the keeping and securing of goods entered to be warehoused without payment of duty on the first entry thereof.

## CHAPTER II.

### GENERAL RULES.

4. The Chief Customs Authority may, with the sanction of the Local Government, make and publish rules for regulating the practice and proceedings of officers in the Department of Sea Customs, and may from time to time add to, alter, or revoke such rules or any of them: provided that no rule so made shall be inconsistent with this Act or any other law for the time being in force.

All rules made under this section shall be published in the local official Gazette.

5. Any rules made under section 4 may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House, and for the landing, shipping, and clearing of parcels forwarded, by Her Majesty's or other mails or by other regular packets and passenger vessels.

When any baggage or parcels are made over to an officer of Customs for the purpose of being landed, a fee of such amount as the Local Government from time to time directs shall be chargeable thereon as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House.

6. If any dispute arises between any officer of Customs and any Master of a vessel, or importer, exporter, owner or consignee of goods or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating to the importation, exportation, or warehousing of any goods, or to the proper rate of duty payable in respect thereof, or to the levy of any duty or penalty thereon, or to any seizure or forfeiture thereof,

the Chief Customs Authority, or such officer of Customs as the said Authority from time to time appoints in this behalf, shall settle such dispute, subject to an appeal to the Local Government, acting under the general instructions of the Governor-General in Council.

Where the dispute relates to the proper rate of duty in respect of any goods, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the officer in charge of the Custom House at the Port of importation or exportation, respectively, the amount of duty demanded by such officer, pending the decision of the Chief Customs Authority.

Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner or consignee, or his agent.

### CHAPTER III.

#### APPOINTMENT OF OFFICERS, PORTS, WHARVES AND WAREHOUSES.

7. The Local Government of every place in which duties of Sea Customs are levied, shall appoint such persons as it thinks proper to exercise the powers conferred, and to perform the duties imposed, by this Act.

Local Government to appoint necessary officers.

Every person so appointed shall be liable to be suspended or dismissed by the Local Government which appointed him.

Suspension and dismissal of such officers.

8. The Local Government may delegate to any Authority within its jurisdiction in the Department of Customs all or any of the powers vested in it by section 7.

Local Government may delegate its powers under section 7 to Customs Authority.

Every subordinate officer who is appointed by virtue of such delegated power shall be liable to be suspended or dismissed by the Authority which appointed him.

Suspension and dismissal of subordinate officers.

9. At any place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the officer subordinate to him shall be deemed to be the proper officer for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs.

Collector of District to perform duties of Customs Officer, where there is no separate Customs Officer.

10. The Local Government may from time to time, by notification in the official Gazette,

Power to appoint Ports and Wharves for shipment and landing.

(a) declare the places which alone shall be Ports for the shipment and landing of goods;

(b) declare the limits of such Ports;

(c) appoint proper places therein to be Wharves for the landing and shipping of goods;

(d) declare the bounds and extent of any such Wharf;

(e) alter the name of any such Port or Wharf. Every such Port, except Aden, shall be deemed to be a Customs Port within the meaning of this Act.

The Local Government may also from time to time in like manner declare what shall, for the purposes of this Act, be deemed to be the limits of the Custom House.

11. The Governor-General in Council may from time to time declare by notification in the Gazette of India, that any Foreign Port in India shall, with such limitations and on such conditions (if any) as he thinks fit, be deemed a Customs Port for the purposes of sections 10, 120, and 132

Power to declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.

to 140, inclusive, in so far as the said sections or any of them are capable of being applied to such Port; and may in like manner from time to time, by notification in the said Gazette, revoke or suspend the operation of any such declaration.

12. The Local Government may from time to time declare by notification in the official Gazette, that any Port or place subject to its administration shall be a Warehousing Port or place for the purposes of this Act;

Power to declare Warehousing Ports and places.

and every Port which, at the passing of this Act, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the Local Government otherwise declares by notification in the official Gazette.

Existing Courts to continue in use until otherwise declared.

13. In any Warehousing Port or place the Chief Customs Authority may from time to time appoint or license public warehouses or places of security wherein dutiable goods may be deposited without payment of duty on the first entry thereof.

Approval, appointment, and licensing of warehouses.

### CHAPTER IV.

#### LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

14. Duties of customs shall be levied on goods imported by sea into any Customs Port from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Import Customs.

15. Duties of customs shall be levied on goods exported by sea from any Customs Port to any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export Customs.

16. No duties of customs shall be levied on goods carried by sea from any Customs Port to any other Customs Port:

No duties on goods carried from one Indian Port to another not a Free Port.

Provided as to opium, salt, and spirits.

Provided that nothing in this section shall apply to opium, salt or spirits;

or to goods brought from any Foreign Port or place to any Customs Port, and there transhipped for, or thence carried to, any other Customs Port without payment of duty;

or to goods removed in bond.

17. The Governor-General in Council may from time to time, by notification in the Gazette of India, exempt any goods imported or exported into or from British India, or into or from any specified port or place therein, from the whole or any part of the duties of customs to which they are liable under the law for the time being in force relating to such duties, and may, by like notification, cancel any such exemption.

Power to exempt from Customs Duties.

Power to cancel exemption.



The Local Government may authorize the Chief Customs authority to exempt, by special order, from the payment of duty, under stated circumstances of an exceptional nature, any goods on which duties of Customs are directed to be levied by any law for the time being in force.

18. The Officer in charge of a Custom House may pass free of duty at his discretion any baggage in actual use, and for this purpose may determine, subject to such general rules as may from time to time be made under section 4, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

#### Transshipment of Goods.

19. In the Ports of Calcutta, Madras, Bombay, Karachi, Aden, Rangoon, Maulmain, Akyab, Chittagong, and such other British Indian Ports as the Governor-General in Council may from time to time by notification in the *Gazette of India* direct in this behalf, the Chief Officer of Customs may (subject to the provisions contained in sections 20 and 21), on application of any person interested as owner, agent, consignee or otherwise in any goods imported by steamer into such port, grant leave to tranship the same without payment of duty at the port of transshipment, and without any security or bond for the due arrival and entry of the goods at the port of destination:

Provided that such goods have been specially and distinctly manifested or declared at the time of import as for transshipment to some other British Indian or foreign port.

20. The power conferred by section 19 shall be exercised subject to such rules as the Local Government may from time to time prescribe by notification in the official Gazette.

21. A transshipment fee on each bale or package of any goods or class of goods transhipped under this Act, may be levied at such rates and under such regulations as the Local Government, with the previous sanction of the Governor-General in Council, from time to time prescribes by notification in the official Gazette.

22. The Governor-General in Council may from time to time, by order notified in the *Gazette of India*, prohibit the transshipment, at any specified port or at all ports, of any specified class of goods, or prescribe any special mode of transshipping any specified class of goods, and may, by like notification, cancel such order.

23. Opium imported by sea into any British Indian port may, if the Local Government think fit, but not otherwise, be re-exported by sea from the same port on payment of a duty equal in amount to the fee to which it would have been liable if it had been transhipped at such port.

#### CHAPTER V.

##### GENERAL PROVISIONS.

24. The importation into or exportation from British India of the goods enumerated in the following clauses is prohibited:—

(a) Any book printed in infringement of any law in force in British India on the subject of copyright, when the proprietor of such copyright, or his agent, has given to the Chief Customs Authority of the Presidency or place a notice in writing that such copyright subsists, and a statement of the date on which it will expire;

(b) Counterfeit coin;

(c) Any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article.

25. The importation into British India of arms or ammunition, except under a license from the said Governor-General in Council, or from some officer authorized in that behalf by the said Governor-General in Council, is prohibited.

Nothing in the former part of this section shall apply to fowling pieces and sporting powder bond fide imported by any person in reasonable quantities for his own private use.

26. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, prohibit or restrict the importation or exportation by sea or by land, or both by sea and by land, of any particular class of goods.

27. It shall be lawful to import into, or to export from, any place declared under section 10 to be a port from the shipment and landing of goods, any goods the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor-General in Council for the time being in force.

28. On the importation into, or exportation from, any Port in British India of any goods not liable to duty, or liable to fixed duties according to weight or quantity only, or to duties on fixed Tariff valuations, the owner, consignee, importer, exporter or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief.

In case of doubt, the officer in charge of the Custom House may require any such person or any other person in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it is in his power to furnish.

And thereupon such person shall produce any such document or furnish any such information so required by such officer.

Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry:



Provided that, if the importer, owner or consignee, or his agent, makes a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package, or parcel of goods, then the officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an officer of Customs.

No re-valuation of goods assessed for duty on the declared value thereof shall be allowed after such goods have been removed from the Custom House.

In all cases in which goods are liable to duty according to the value thereof, and in which no value has been fixed by law for the purpose of levying duties thereon, the value shall be assessed at the wholesale cash price, less trade-discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the duties payable on the importation thereof amount to.

Nothing in this section applies to opium, salt or spirits.

29. If, upon the examination of any goods chargeable with duty upon the value thereof, but for which a specific value is not fixed by law, for the purpose of levying duties thereon, it appears to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of duty than that to which they would be subject according to the value thereof as stated in the bill of entry or shipping bill, such officer may detain such goods.

In every such case the detaining officer shall forthwith give notice in writing to the person entering the goods, of their detention and of the value thereof as estimated by him; and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Officer in charge of the Custom House shall cause the full value at which they were entered to be paid to the person entering the same in full satisfaction for such goods, in the same manner as if they had been transferred by ordinary sale, and shall then cause them to be sold by public auction after due notice in the official Gazette.

If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall, at the discretion of the Chief Officer of Customs, be payable to the officer who detected the under-valuation of the goods.

Nothing in this section shall prevent the Chief Officer of Customs, when he has reason to believe that any such under-valuation was solely the result of accident, from permitting the person

entering the goods, on his application for that purpose, to amend such entry, on payment of such increased rate of duties, or on such other terms as he may determine.

30. When goods are retained under section 29 for the use of Government, the duties payable thereon shall in no case be levied from the person entering such goods.

31. If upon the first levying, repealing, en-  
Date of importation how to be determined. bancement or reduction of any duty,

or upon any change of any valuation for duty, or upon the first permitting, prohibiting or restricting of any importation,

it becomes necessary to determine the exact date on which an importation of goods had effect, such date shall be deemed to be that on which the goods were actually entered for home-consumption at the Custom House.

For the purpose of this section goods shall be deemed to be entered when the bill of entry thereof is delivered to the officer in charge of the Custom House.

32. If, in like manner, it becomes necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the Custom House.

33. When a contract is entered into for the sale of any dutiable goods at a fixed price including the duty leviable in British India at the date of the contract, and subsequently thereto, and before the contract is fully performed, the duty on such goods is raised or lowered, and levied accordingly, the amount to be paid to or received by the parties to the contract shall be increased or diminished, as the case may be, by the amount by which such duty is raised or lowered.

#### Illustrations.

(a.) A, a merchant in Calcutta, contracts with B, a merchant in Liverpool, to sell him 100 maunds of indigo at Rs. 200 per maund, including the export duty at the rate of 3 rupees per maund. Before the contract is fully performed the duty on indigo is reduced to 1 rupee per maund. B is entitled to deduct from the price agreed on Rs. 200, being Rs. 2 per maund.

(b.) A, a wine merchant in Bombay, contracts with B, a merchant in Bordeaux, for a thousand gallons of claret at Rs. 5 per gallon, including the import duty of 1 rupee per gallon. Subsequently, and before the contract is fully performed, the duty is raised to Rs. 2 per gallon levied at that rate, B is entitled to be paid at the rate of Rs. 6 per gallon.

34. When during the transit by sea to British India of any dutiable goods, the duty on such goods is raised, the duty leviable on such goods on arrival in British India shall be the duty which is in force in respect of such goods when such transit commenced, and when the duty on such goods is reduced, the duty leviable thereon shall be such reduced duty.

35. If goods produced or manufactured in British India be imported into any Customs Port from any Foreign Port or place, such goods shall be treated as Foreign goods, and shall be liable to all the

Duty leviable on sea-borne goods, duty on which has been altered during transit.

Re-imported articles of country produce to be deemed Foreign.

duties, conditions and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof:

Provided that, if such importation takes place within three years after the exportation of such goods, and it is proved to the satisfaction of the Officer in charge of the Custom House that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority from time to time directs.

Goods for which any drawback of Excise has been received on exportation shall in all cases be treated as Foreign goods, unless the Chief Customs Authority in any case otherwise directs by special order.

**36.** The Officer in charge of the Custom House, whenever he sees fit, may require that goods stowed in bulk, and brought by sea or intended for exportation, shall be weighed or measured on board ship before landing or after shipment and may levy duty according to the result of such weighing or measurement.

**37.** Any Officer of Customs may open any package, and fully examine any goods brought by sea, or shipped or brought for shipment at any place in British India.

**38.** The Chief Customs Authority may from time to time appoint, in any Customs Port, stations or places at which vessels arriving at or departing from such Port shall bring to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port small vessels, not brought into Port by Pilots, shall be required to anchor or moor.

The Chief Officer of Customs may at any time station Officers of Customs on board of any vessel while such vessel remains within the limits of the Port.

**39.** The Officer in charge of the Custom House at any Port in British India, may at any time depute at his discretion one or more Officers of Customs to board any vessel arriving at such Port.

Every such Officer of Customs so sent shall remain on board of such vessel by day and by night until it be otherwise ordered by the officer in charge of the Custom House:

Provided that the Officer in charge of the Custom House may direct, whenever he sees fit so to do, and on such conditions as he sees fit to impose, that the discharge of cargo may take place without the presence of an Officer of Customs.

**40.** Every Master of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer and to provide such officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board.

**41.** Every officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and may fasten down any hatchway or entrance to the hold, and mark any goods before landing, and lock up, seal, mark or otherwise secure any goods on board of such vessel.

If any box, place, or closed receptacle in any such vessel be locked, and the keys be withheld, such officer shall report the same to the officer in charge of the Custom House, who may thereupon issue to the officer on board, or to any other officer, under his authority, a written order to search.

On production of such order, the officer bearing the same may require that any place, box, or closed receptacle in such vessel be opened in his presence; and, if it be not opened upon his requisition, he may break the same open.

**42.** Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall on any Sunday or on any holiday or day on which the discharge of cargo is prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Customs Port or be shipped or water-borne for exportation or for carriage coastwise;

nor, except with such written permission, shall any goods be so discharged, shipped or water-borne on any day, except between such hours as the Chief Customs Authority from time to time appoints by notification in the official Gazette; nor without the presence or authority of an officer of Customs;

nor in the case of goods so shipped or water-borne from any place in any such Port except a wharf duly appointed for such purpose;

nor without the presence of the proper officer of Customs;

nor before due entry outwards of the exporting vessel and of the goods;

nor before such goods shall have been duly cleared for shipment.

## CHAPTER VI

### IMPORTATION

**43.** The Local Government may, by notification in the official Gazette, fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any Foreign Port or place, to pass until the Master thereof has delivered to the Pilot, Officer of Customs, or other person duly authorized to receive the same, a manifest signed by the Master containing a true specification of all goods imported in such vessel, with such particulars and made out in such form as is from time to time directed by the Chief Customs Authority.

If in any River or Port wherein a place has been fixed by the Local Government under this section, the Master of any vessel arriving from any Foreign Port or place remains outside or below the place so fixed, such Master shall nevertheless, within twenty-four hours after the vessel anchors, deliver to the Pilot, Officer of Customs or other person authorized to receive the same, a manifest as provided in the same section.

44. In the case of a steamer the Master may enter in the manifest the name of the ship's agent as that of the consignee of any cargo, and the Chief Customs Authority may treat him as such consignee, provided he gives sufficient security to pay all claims for damage or short delivery which may be established by the owner of such cargo.

45. The Pilot, officer or other person so receiving the said manifest shall countersign the same and enter thereon such particulars as the said Chief Customs Authority from time to time directs in this behalf.

46. No vessel arriving in any Customs Port from any Foreign Port or place, shall be allowed to break bulk until a manifest has been delivered as hereinbefore provided; nor until a copy of such manifest, together with an application for entry inwards, has been presented to the officer in charge of the Custom House, and order has been given thereon by such officer for the discharge of the cargo.

The officer in charge of the Custom House may refuse to give such order, until any port-clearance, cockett, or other, paper, which he knows or has reason to believe had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him.

Nothing in this section shall prevent an officer in charge of a Custom House from granting, prior to receipt of the original manifest and prior to the entry of the vessel at the Custom House, a special pass, permitting bulk to be broken. The granting of such pass shall be subject to such rules as may from time to time be prescribed by the Chief Customs Authority.

47. The Master of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Customs Port, deliver to the Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as are put to him by such officer.

48. No goods shall be allowed to leave any vessel, unless they be duly entered in the manifest of such vessel.

49. Nothing contained in section 48 shall prevent any officer in charge of a Custom House from permitting the Master of any vessel to amend any obvious error in the

manifest, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary manifest.

But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House; and, if he decide to receive any such amended or supplementary manifest, he may levy thereon such fee as the Chief Customs Authority from time to time directs.

50. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House directs, shall be allowed for the landing of import cargo from such vessel.

One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single Officer of Customs for such period of fifteen working days, or for the services of several such officers for respective periods the aggregate of which does not exceed fifteen working days.

If the period occupied in the landing of import cargo be in excess of that so allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) to such excess period.

51. If the importer, owner or consignee of any goods (except such as have been declared by the Master as not to be landed) or the agent of such importer, owner or consignee does not land such goods within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same, as the Local Government from time to time appoints by notification in the official Gazette, or within such further period as the bill of lading of such vessel specifies, the Master of the vessel, or the Officers of Customs on his application, may then carry such goods to the Custom House.

The Officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods;

and, if notice in writing has been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, he shall hold such goods until he shall have received notice in writing that the said charges are paid.

52. If any period earlier than the number of working days so appointed is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner or consignee of such cargo, or his agent, does not land the same within such specified period, the Master of such vessel, or the Officers of Customs, on his application, may then carry such goods to the Custom House.

The Officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods;

and, if notice in writing has been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, he shall hold such goods until the said charges are paid.

53. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the landing of such package or parcel.

If any package or parcel so carried to the Custom House remains unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master may give such notice as is provided in section 51, and the Officer in charge of the Custom House shall thereupon hold such package or parcel as provided in the said section.

54. If the duties chargeable upon any goods carried to the Custom House under the provisions of any of the three sections last preceding, together with the freight, primage, charges of landing and removal rent and other charges to which such goods are liable, are not paid within four months from the date of entry of the vessel; or if such goods are not duly warehoused within such period;

such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall then be applied; first, to the payment of freight, primage and general average; next to the payment of duties; and then to the payment of other charges.

The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made.

If any such goods be of a perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner.

Nothing in this section shall authorize the passing for home-consumption of any dutiable goods without payment of duties of Customs thereon: provided that such goods may be so passed where the importer, owner or consignee furnishes security, to the satisfaction of the officer in charge of the Custom House, for the payment of the duties to which such goods are liable.

55. If any goods be not cleared for home-consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House directs, such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of duties and other charges.

Goods may be landed at any time after arrival with consent.

Procedure in case of non-payment of duties within four months after entry of vessel.

Goods not cleared within two months from date of landing to be sold.

The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made.

Provided also that where such goods are arms, ammunition or military stores, they may be sold or otherwise disposed of at such place (whether within or without British India) and in such manner as the Local Government may from time to time direct.

56. All goods removed from one boat of any vessel for the purpose of being landed and passed for importation, shall be forthwith landed at the wharf or other place appointed for the landing of such goods.

57. No goods discharged from any vessel under the authority of an officer of Customs shall be landed, except at the wharf or other place appointed for the landing of such goods.

No goods discharged into any boat for the purpose of being landed shall, previously to their being landed, be transhipped into any other boat without the permission of an Officer of Customs.

58. When any goods are sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent, with each boat-load or other separate dispatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof.

Each boat-note shall be signed by an officer of the vessel, and likewise by the Officer of Customs on board, if any such officer be on board.

59. The importer, owner, or consignee of any dutiable goods intended to be delivered for home consumption, on the landing thereof from the importing ship, or the agent of such importer, owner or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House a bill of entry thereof in such form and containing such particulars as may from time to time be directed by the Chief Customs Authority.

The particulars of such entry shall correspond with the particulars given of the same goods and packages in the manifest of the ship.

60. No claim for any abatement or refund of duty, on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Customs Port, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination thereof, by a Custom House Appraiser, or by such other person as the Officer in charge of the Custom House appoints for the purpose.

Claims to abatement of duty on account of damage how to be treated.

61. Goods the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House may, after notice in the official Gazette, or some mercantile newspaper circulating in the place, be sold by public auction at such time (within thirty days from the date of entry), and at such place as the Officer in charge of the Custom House appoints.

The duty on such goods shall be adjusted on the gross amount realized by their *bond fide* sale, as proved by the original account-sales, without any abatement or deduction, except of so much as represents the duties payable on the importation thereof.

On goods the value of which has been fixed by law for the purpose of levying duties thereon, no abatement of duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value.

No abatement of duty on account of damage shall be allowed on wines, spirits, or beer, or on any other articles on which duties are levied on quantity and not on value.

62. All goods derelict, jetsam, flotsam, and wreck brought or coming into any Customs Port shall at all times be subject to the same duties to which goods of the like kind are subject on importation at such Port, unless it be shown to the satisfaction of the Officer in charge of the Custom House that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted duty-free.

63. Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master of any vessel as not to be landed, and may thereupon, with the special sanction of the Officer in charge of the Custom House, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of duty:

Provided that all such cargo and ship's stores shall be entered in the export manifest of the vessel as cargo or ship's stores not landed, and on which no duty has been paid.

Nothing in this section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

## CHAPTER VII.

### WAREHOUSING.

64. Any person who has imported any dutiable goods into any warehousing Port may deposit such goods, without payment of duty on the first entry thereof, in any public or private warehouse approved, appointed, or licensed under this Act.

65. Every public warehouse appointed under section 13 shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs.

The warehouse-keeper shall, to the extent provided in sections 70 and 82 and not otherwise, be responsible for the charge of all goods deposited in his warehouse, and for their due reception therein and delivery therefrom.

66. The Chief Customs Authority, or such Officer of Customs as such Authority from time to time appoints in this behalf, may from time to time determine in what division of any public warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods may be deposited without payment of duty on the first entry thereof.

A table of the rates of rent so fixed for every public warehouse shall be placed in a conspicuous part thereof.

67. At any warehousing Port or place, the Chief Officer of Customs may license private warehouses for the reception of dutiable goods under this Act without payment of duty on the first entry thereof.

Every license for a private warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs.

68. Every application for a license for a private warehouse shall be in writing, and shall be drawn up in the Form marked A hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs authority, and shall be signed by the applicant.

69. Every application for the admission of goods into any public or private warehouse shall be in writing, and shall be drawn up in the Form marked B hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs Authority, and shall be signed by the applicant.

70. No goods shall be warehoused unless they have been assessed for Customs duty in like manner as goods intended to be passed for home-consumption.

The warehouse-keeper in respect of goods lodged in a public warehouse, and the person who obtained the license in respect of goods lodged in a private warehouse, shall be answerable for the weight or gauge reported by the Custom House Officer who has assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in section 84.



Nothing in this section shall interfere with the re-assessment for duty of warehoused goods on their clearance for home consumption, should an alteration of any duty or of any valuation for duty render such re-assessment requisite with reference to the provisions of section 31.

**71.** When an application has been made for the warehousing of any goods under this Act, and when such goods have been assessed for duty as directed in section 70, the importer, owner, or consignee, or his agent shall execute a bond\* for the amount of such duty in the Form marked C hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs Authority.

Every such bond shall relate to the duties chargeable on the cargo or portion of the cargo of one vessel only.

**72.** Every bond shall be for twice the amount of duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand, at such rate, not exceeding six per cent. per annum, as is fixed by the Chief Customs authority.

Every person executing any such bond shall be bound thereby for the payment of all duties, interest, and charges claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

**73.** When any such bond has been executed, the goods to which such bond relates shall be allowed to remain in warehouse for a period not exceeding three years, without being liable to the demand of import duty.

**74.** When the provisions of sections 69, 70, 71 and 72 have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the warehouse in which they are to be deposited.

There shall be sent with the goods a pass in which the name of the importing vessel and of the bonder, the marks, numbers and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited, shall be specified.

On receipt of the goods into the warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper officer, and the pass shall be returned to the Officer in charge of the Custom House after which the warehousing of such goods shall be deemed to have been completed.

**75.** No package, butt, cask, or hogshhead shall be admitted into any public or private warehouse unless it bear the marks and numbers specified in the pass for its admission.

**76.** All goods shall be warehoused in the packages, butts, casks, or hogshheads in which they have been imported, except as provided in section 81.

**77.** The Officer in charge of the Custom House may at any time issue the written order to cause any goods or packages lodged in any public or private warehouse to be opened, weighed, or otherwise examined as he directs; and after any goods have been so opened or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

When any goods have been so sealed and marked after examination, they shall not be again opened without permission from the Officer in charge of the Custom House; and when any such goods are opened with the permission of such Officer, the packages shall, if it seems fit to such Officer, again be sealed or marked as before.

**78.** The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act.

**79.** Every bond executed for duty chargeable on goods deposited in any private warehouse shall become due and may be put in suit for the levy of such duties and other demands of Customs after seven days have passed from the date on which the Officer in charge of the Custom House has given notice that the license for such warehouse is withdrawn.

**80.** Any importer, owner, or consignee of goods lodged in a public or private warehouse under this Act, or the agent of any such importer, owner, or consignee shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs, and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the Officer in charge of the Custom House.

When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House finds it expedient to employ such special Officer.

**81.** With the sanction of the Officer in charge of the Custom House, and after such notice given, and under such rules and conditions as the Chief Customs Authority from time to time prescribes, it shall be lawful for any importer, owner, or consignee of goods, or his agent, either before or after warehousing,

(a) to sort, separate, pack, and repack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be repacked in the packages in which they were imported, or in such other packages as the Officer in charge of the Custom House permits);

(b) to fill up any casks of wine, spirits, or beer from any casks of the same secured in the same warehouse;

(c) to mix any wines of the same sort, erasing from the cask all import-brands, unless the whole of the wine so mixed be of the same brand;

(d) to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of duty, except as the same may eventually become payable on a deficiency of the original quantity;

and after such goods have been so separated and repacked in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner, or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or repacking (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

82. No importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public warehouse, compensation for any loss or injury occurring to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it be proved that such loss or injury was occasioned by the wilful act or neglect of the warehouse-keeper or of an Officer of Customs.

83. If any goods warehoused or entered to be warehoused, or entered to be delivered from a warehouse, are lost or destroyed by unavoidable accident or delay either on board of any vessel, or in landing or during receipt into the warehouse, or in the warehouse, the Chief Customs Authority may remit the duties due thereon, or return them if paid:

Provided that, if any goods be so destroyed in a private warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction.

If goods lodged in a warehouse receive damage through unavoidable accident, they shall be re-assessed for duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

84. The import duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever:

Provided that, if it appear, at the time of clearing any wines, spirits, beer, or salt, that a deficiency exists, an allowance (or remission of ullage and wastage) shall be made in adjusting the duties thereon, to an extent not exceeding the rates specified below, or in such table as may from time to time be

prescribed in this behalf by the Local Government and notified in the official Gazette.

*Rates of ullage or wastage in respect to Wines, Spirits, and Beer in cask.*

For any time not exceeding	6 months	24 per cent.
Exceeding 6 months and not exceeding 12 months	12	5
Ditto 12 months and not exceeding 18 months	18	7½
Ditto 18 months and not exceeding 2 years	2 years	10
Ditto 2 years and not exceeding 3 years	3	12½

When salt is warehoused in a Government gola or store-house under charge of a Government Officer, duty of Customs shall be chargeable only on the amount actually cleared:

The rate of wastage to be allowed in adjusting the duties on salt warehoused in a private gola or store-house shall be prescribed from time to time by the Local Government and notified in the official Gazette.

85. When any Wines, Spirits, Beer or Salt lodged in a private warehouse are found to be deficient at the time of the delivery therefrom, and if such deficiency is proved to be due solely to ullage or wastage, the Chief Customs Authority may direct, in respect to any such article and for the purposes of this section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in section 84.

86. No goods shall be removed from any warehouse, except after application to the officer in charge of the Custom House for permission to pass the goods for exportation by sea to some Foreign Port or place;

or for home-consumption, in like manner as is prescribed by section 59 for goods entered for home-consumption on the landing thereof,

or for removal to another warehouse, as provided in sections 93, 94, 95, and 96.

87. Application to remove goods from any warehouse shall be made in the Form marked D hereto annexed, or in such other form as the Chief Customs Authority from time to time prescribes.

Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours before it is intended so to remove such goods.

88. If any goods are taken out of any warehouse otherwise than as is provided in this Act, the bonders shall forthwith pay the duties due upon such goods.

89. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a warehouse shall, if paid by the Officer in charge of the Custom House or by the warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner, or consignee, in like manner as the duties of Customs.

90. If goods be lodged in a public warehouse, the importer, owner, or consignee shall further pay monthly, on receiving a bill or written demand for the same from the warehouse-keeper, the rent and warehouse dues.

If any such bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House may, in liquidation of such demand (any transfer or assignment of the goods notwithstanding), cause to be sold by public auction after due notice in the official Gazette such sufficient portion of the goods as he may select.

Out of the proceeds of such sale the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if any, to the importer, owner, or consignee:

Provided that application for the same be made within one year from the sale of the goods, or that good reason be shown why such application was not so made.

91. If any goods warehoused as provided in this Act are removed or taken from the warehouse otherwise than for removal to another warehouse, as provided in sections 93, 94, 95 and 96, or for exportation by sea to some Foreign Port or place;

or if any goods have not been cleared from the warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse.

the Officer in charge of the Custom House shall thereupon demand the full amount of import duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

But if any goods so warehoused are before the expiration of the time last mentioned removed or taken from the warehouse for removal to another warehouse as provided in sections 93 to 96 inclusive, or for exportation by sea to some Foreign Port or place, no duty shall be chargeable.

92. If any importer, owner, or consignee fails to pay any duty or penalty that falls due on account of goods warehoused under this Act, the Officer in charge of the Custom House may either proceed upon the bond executed by such importer, owner, or consignee, or may cause such portion as to him seems fit of the warehoused goods on account of which the duty or penalty is demanded, to be detained in satisfaction thereof;

and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand, after due notice in the official Gazette.

The proceeds of any sale so made of goods so detained shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner, or consignee of the goods: Provided that application for the same be made within one year from the sale, or that good

reason be shown why such application was not so made.

No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods in the manner above provided, for any demand of Customs duties or penalty claimed thereon.

93. Any importer, owner, or consignee of goods warehoused under this Act, or any agent of such importer, owner, or consignee may, with the permission of the Chief Officer of Customs, and on such conditions and after giving such security as the Chief Customs Authority directs, remove goods from one public or private warehouse to another warehouse in the same Port.

When any person desires so to remove any goods, he shall make application in the Form marked E hereto annexed, or in such other form as the Chief Customs Authority from time to time prescribes.

94. Goods warehoused under this Act at any warehousing Port may from time to time be removed by sea or by inland carriage in order to be rewarehoused at any other warehousing Port.

When any person desires so to remove any goods, he shall apply to the Chief Officer of Customs, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority from time to time prescribes.

95. When permission is granted for the removal of any goods from one warehousing Port or place to another, under section 94, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination.

and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination within such time as the Chief Customs Authority directs.

Such bond may be taken by the proper Officer either of the Port or place of removal, or of the Port or place of destination, as best suits the residence or convenience of the persons interested in such removal.

If such bond is taken at the Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods are produced to the proper Officer and duly rewarehoused at the Port or place of destination within the time allowed for such removal, or are otherwise accounted for to the satisfaction of such Officer; nor until the full duties due upon



any deficiency of such goods, not so accounted for, have been paid.

96. The Chief Customs Authority may permit any person desirous of removing warehoused goods to enter into a general bond with such sureties, in such amount, and under such conditions as the Chief Customs Authority approves, for the removal from time to time of any goods from one warehouse to another, either in the same or in a different Port or place, and for the due arrival and rewarehousing of such goods at the Port or place of destination within such time as the Chief Customs Authority directs.

97. Upon the arrival of warehoused goods at the Port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last mentioned goods.

98. When any goods warehoused as provided in this Act are removed from any public or private warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond.

Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the export-pass under which they have been taken away, if removed for exportation by sea, or of the import-pass or order if removed for home-consumption, and the amount of duty (if any) paid.

99. A register shall be kept of all bonds entered into for Customs duties on goods warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in section 98.

When the register shows that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either owing to the goods being passed for home-consumption on the payment of duties, or owing to their re-exportation by sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods have been paid, the Officer in charge of the Custom House shall cancel such bond as discharged in full, and deliver it, so cancelled, to the person who has executed or who is authorized to receive it.

100. In no case shall the settlement of duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

101. As often as any goods are lodged in a public warehouse, or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Such warrant shall be in the Form I hereto annexed and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

102. All the provisions of this Act, relating to private warehouses, shall be applicable to the warehouses wherein the Bengal Bonded Warehouse Association receives bonded goods.

## CHAPTER VIII.

### TRANSHIPMENT.

103. When goods other than salt or opium are brought in any vessel to any Port in British India, and such goods have been specially and distinctly manifested or declared at the time of import as for transshipment to any other British Indian or Foreign Port, and application is made for leave to transship such goods, such transshipment shall be allowed without the payment of duty at the Port of transshipment, subject to such rules as may from time to time be prescribed by the Local Government:

Provided that where the goods so transhipped are to be removed to some other Port in British India, the person requiring such transshipment shall enter into a bond, with such security as may be required of him, in a sum equal at least to the duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs of the Port of transshipment directs.

Such goods shall thereupon be treated in all respects as warehoused goods, removed under the provisions of sections 94 and 95.

An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

104. A transshipment fee on each bale or package of goods transhipped under section 103 shall be levied at such rates and under such regulations as may from time to time be prescribed by the Local Government.

All such rates and regulations shall be published in the local official Gazette.

105. All goods transhipped under section 103 for removal to a Port in British India shall on their arrival at such Port be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof and under the laws and rules,

in so far as such laws and rules can be made applicable which regulate the entry and warehousing of such last mentioned goods.

**106.** If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of marine stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be transhipped from one such vessel to any other such vessel without payment of import duty.

*Transshipment of stores from one vessel to another of the same owner without payment of duty.*

## CHAPTER IX.

### EXPORTATION.

**107.** No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application has been duly made to the Officer in charge of the Custom House by the Master of such vessel, or by his authorized agent; nor until an order has been given thereon by such Officer for such entry or shipment of cargo.

Every application made under this section shall specify the name, tonnage, and nation of the vessel, the name of the Master, and the name of every place for which cargo is to be shipped.

**108.** A period of fifteen working days after the expiration of the period allowed for discharging import-cargo under section fifty, or such further period as the Officer in charge of the Custom House directs, shall be allowed for the shipment of export-cargo on board of every vessel not exceeding six hundred tons.

One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single Officer of Customs for such period of fifteen working days, or for the services of several such Officers for respective periods not exceeding in the aggregate fifteen working days.

If the period occupied in the shipment of export-cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import-cargo and before commencing the shipment of export-cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master.

**109.** No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent has filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the Form marked F hereto annexed, or in such other form as may

*Exporter to deliver shipping bill before shipping any goods.*

from time to time be prescribed by the Chief Customs Authority.

**110.** Before any warehoused goods or goods subject to duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Officer in charge of the Custom House directs, with one sufficient surety that such goods shall be duly shipped, exported, and landed at the place for which they are entered outwards, or shall be otherwise accounted for to the satisfaction of such Officer.

*On entry outwards, bond to be given for shipping and landing.*

**111.** When any goods are sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent, with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof.

*Boat-note.*

Each boat-note shall be signed by the proper Officer of Customs, and, if an Officer of Customs is on board of the vessel on which such goods are to be shipped, shall be delivered to such Officer.

If no such Officer be on board, every such boat-note shall be delivered to the Master of the vessel, or to an Officer of the vessel appointed by him to receive it.

**112.** No vessel, whether laden, partially laden, or in ballast, shall depart from any Port in British India until a port-clearance has been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same.

*No vessel to depart without a port clearance.*

Every application for port-clearance shall be made by the Master at least twenty-four hours before the intended departure of the vessel; and every Master of a vessel so applying for port-clearance shall answer to the proper Officer of Customs such questions touching her departure and destination as are demanded of him.

A certificate of departure without port-clearance purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *prima facie* proof of the fact so certified.

**113.** No Pilot shall take charge of any vessel proceeding to sea, unless the Master of such vessel produces a port-clearance.

*No Pilot to take charge of any vessel proceeding to sea without production of port-clearance.*

**114.** The Master of every vessel intending to leave any Port in British India shall, at the time of applying for port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs Authority, containing a full and true specification of all goods to be exported in the vessel and signed by the Master;

*Master on applying for port-clearance, to deliver manifest and certificates.*

and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, requires.

The Officer in charge of the Custom House, or other duly authorized Officer, when satisfied with the said certificates, and as to the correctness of the manifest, shall grant a port-clearance to the Master, and shall return at the same time to such Master one copy of the manifest duly countersigned by the proper Officer of Customs.

Nothing in this section shall prevent the Officer in charge of the Custom House from granting (subject to such rules as the Chief Customs Authority may from time to time prescribe) a port-clearance to the Master when the ship's Agent furnishes sufficient security for duly delivering, within three days from the date of grant, the manifest and certificates aforesaid.

**115.** The Officer in charge of the Custom House may refuse port-clearance to any vessel until the required manifest and certificates are produced, and until all Port-dues and other charges and penalties due by such vessel, or by the Master thereof, are duly paid, or their payment secured by such guarantee, or by a deposit at such rate, as the Officer in charge of the Custom House directs.

**116.** When goods are passed through the Custom House for shipment on an application presented after port-clearance has been granted, two per cent. upon the market-value of any such goods not liable to duty, or liable to specific duties according to weight or quantity only, or to duty according to value, and upon the tariff value of goods so passed which are liable to duties on fixed tariff valuations, shall in every case be levied, in addition to any duty to which such goods are ordinarily liable:

Nothing in this section shall apply to any shipment of Treasure or Opium.

**117.** Upon an application being made to the Officer in charge of the Custom House, the duty levied upon goods not shipped, or upon goods shipped and afterwards relanded shall be returned to the person on whose behalf such duty was paid:

Provided that no such refund shall be allowed unless application therefor has been made before the expiration of three clear working days after the vessel on which such goods were intended to be shipped, or from which they were relanded, has left the Port.

**118.** If any vessel, after having cleared from any Customs Port shall, without having discharged her cargo, return to such Port, or put into any other Customs Port, any owner or shipper of cargo in such vessel, or the agent of any such owner or shipper, if he desires to land the same or any portion thereof for re-export, may

make application to the Officer in charge of the Custom House.

Such Officer, if he grant the application, shall thereupon send an Officer of Customs to watch the vessel, and take charge of the cargo during such relanding or removal from on board.

Goods on board of such vessel shall not be allowed to be transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export, unless such goods are lodged and remain under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export.

All charges attending such custody shall be borne by the exporter.

**119.** In either of the cases mentioned in section 118, the Master of the vessel, or any owner or shipper of cargo therein, may enter such vessel and land such cargo under the rules for the importation of goods.

In every such case the export duty shall be refunded to, and the amount paid in drawback shall be reclaimed from, such owner or shipper.

**120.** Provisions and other such ship's stores warehoused at the time of importation may be exported without payment of duty for use and consumption on board of any vessel proceeding directly to a Foreign port or place, whether such port or place be or be not the port or place of ultimate destination.

Articles of Indian produce or manufacture including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of duty, whether of Customs or Excise, in such quantities as the Officer in charge of the Custom House determines with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart:

Provided that no such rum shall be shipped as stores free of duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty days' probable duration.

## CHAPTER X.

### DRAWBACK.

**121.** Upon the re-export by sea to any Foreign Port or place of any goods, except Salt or Opium, capable of being easily identified, imported by sea into British India from any Foreign Port or place, and upon which duties of Customs have been paid on importation, three-fourths of such duty shall be repaid as drawback:

Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House, and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority, on sufficient cause for such extension being shown, in any case determines.

The Governor-General in Council may from time to time, by notification in the *Gazette of India*, declare what goods shall for the purpose of this section be deemed to be capable of being easily identified.

No repayment shall be made under this section on account of any article, entered in the export manifest of the vessel as ship's stores.

**122.** No payment of drawback shall be made upon any goods re-exported from any port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment.

No such payment of drawback shall be made until the vessel carrying the goods has put out to sea.

**123.** No drawback shall be allowed upon the exportation of any goods entered for drawback, which are of less value than the amount of the drawback claimed.

**124.** A drawback of the whole of the duties paid under Act No. XXIII of 1860 (to amend Act XXI of 1856, to consolidate and amend the law relating to the *Abkari Revenue in the Presidency of Fort William in Bengal*), section one, on spirit manufactured at distilleries worked according to the English method and exported by sea in manner prescribed by Act No. XXI of 1856 (to consolidate and amend the law relating to the *Abkari Revenue in the Presidency of Fort William in Bengal*) to any Foreign Port shall be allowed at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under the said Act No. XXIII of 1860, and that the spirit, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

No drawback on goods not entered in Export manifest.

No drawback allowed except on goods exported out of India.

But drawback may be allowed upon goods which, after having been charged with duty at one Customs Port and thence exported to another, are thence again re-exported by sea to a Foreign Port or place:

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House at the Port of final exportation, and that such final exportation be made within three years from the date of first importation into British India.

**127.** Every person, or his duly authorized agent, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been relanded and are not

intended to be relanded at any Customs Port; and that such person was, at the time of entry and shipment, and continues to be, entitled to drawback thereon.

**128.** A drawback of the whole of the duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine has been warehoused without payment of duty on the first entry thereof.

The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportion specified below; that is to say—

	Gals.
For every Admiral	1,260
Vice-Admiral	1,050
Rear-Admiral	840
Captain of 1st and 2nd rate	630
Captain of 3rd, 4th, and 5th rate	420
Captain of an inferior rate	210
Lieutenant or other commanding Officer, and for every Marine Officer, Master Purser, or Surgeon	105

**129.** Every person clearing and claiming drawback for wine, as provided in section 128, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed.

All such wine shall be delivered into the charge of the proper Officers of Customs at the Port of shipment, to be shipped under their care; and when the Officer commanding the ship has certified the receipt of such wine into his charge, and the proper Officer of Customs has certified the shipment, the drawback shall be paid to the person entitled to receive the same.

**130.** The Officer in charge of the custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer on board of the same, or of any other such ship, as part of his authorized proportion;

or may permit the transshipment of any such wine from one ship to another for the use of the same Naval Officer;

or the relanding and warehousing of any such wine for future reshipment.

The Officer in charge of the Custom House may also receive back the duties for any such wine, and allow the same to be cleared for home-consumption.

**131.** Provisions and stores for the use of Her Majesty's Navy shall, in like manner, be passed free of duty;

and where duties have been paid on such provisions and stores, drawback of such duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

## CHAPTER XI.

## COASTING TRADE.

**132.** The Governor-General in Council, or the Local Government acting under the general instructions of the Governor-General in Council, may from time to time determine by rules to be published in the official Gazette, on what conditions goods may be carried in a coasting vessel, though shipped at a Foreign Port in India to be so carried; also in what cases goods may be shipped in a coasting vessel before all goods brought in such vessel from a Foreign Port or place have been unladen.

**133.** The Master of every coasting vessel, which is square-rigged or propelled by steam, shall keep or cause to be kept, a cargo-book stating the name of the Master, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound.

At every Port of lading such Master shall enter, or cause to be entered, in such book the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him.

At every Port of discharge of any such goods, such Master shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel.

The respective times of departure from every Port of lading, and of arrival at every Port of discharge, shall in like manner be duly entered.

Every such Master shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein.

**134.** The Governor-General in Council or the Local Government may from time to time, by notification in the official Gazette, prescribe rules for the guidance of the Masters of all other coasting vessels, as to the matters mentioned in the last preceding section.

**135.** Before any coasting vessel departs from the Port of lading, an account with a duplicate thereof, in the Form marked G hereto annexed, or in such other form as may from time to time be prescribed by the Chief Customs Authority, shall be filled in and signed by the Master and delivered to the Officer in charge of the Custom House.

Such Officer shall retain the duplicate and return the original account dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein.

**136.** The Officer in charge of the Custom House may, for sufficient reason, refuse port-clearance to any vessel declared to be bound to any Port in British India,

unless the owner, agent, or Master gives a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate from an Officer of the port to which such vessel is said to be bound, of her arrival at such Port within a reasonable time, to be prescribed in each case by the Officer requiring the bond.

**137.** The Chief Customs Authority may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unloading, of any coasting steam-vessel at any Ports of despatch or destination, or at any intermediate Ports at which she touches for the purpose of receiving goods or passengers.

Any such general pass may be revoked by notice in writing under the hand of the proper Officer delivered to the Master or to the owner of such steam-vessel, or to any of the crew on board.

**138.** Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery.

**139.** If any of the goods on board of any coasting vessel be subject to any duty of Excise, they shall not be unladen without the permission of the proper Officer of Excise.

**140.** Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unloading, and may demand the production of any document which ought to be on board of any such vessel.

The Officer in charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection.

## CHAPTER XII.

## CARGO BOATS.

**141.** The Local Government may declare with regard to any Port, by notification in the official Gazette that after a stated date no boat not duly licensed and registered will be allowed to ply as a cargo-boat, for the landing and shipping of merchandize within the limits of such Port.

**142.** The Chief Officer of Customs of any Port with regard to which notification has been issued under section 141 may issue licenses for and make registration of cargo-boats, under such rules and on payment of such fees as the Local Government from time to time prescribes.

Every table of fees prescribed under this section shall be published in the local official Gazette.



## CHAPTER XIII.

## SPIRITS.

143. The Chief Customs Authority may from

Rules for removal of spirits from distillery without payment of duty and for exportation thereof.

time to time prescribe the conditions on which and the rules under which spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of duty of Excise.

The person so removing any such spirits shall execute to the Government a bond, with one or more sureties, in the Form marked H hereto annexed, or in such other form as the said Chief Customs Authority from time to time prescribes, for the payment of duty on such portion of the said spirits as is not exported within four months from the date of the bond, and upon any portion which is exported to any other Port in British India not being a Customs Port, but proof of the landing whereof and of payment of duty of Customs whereon at the Port of destination is not furnished to the satisfaction of the proper Officer within six months from the date of the bond.

The Chief Officer of Customs of the Port of exportation may extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that duty has been paid.

144. Spirits for exportation under bond for the

Spirits for export to be taken direct from distillery to Custom House under pass.

duty of excise shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Officers of Excise.

145. Spirits brought to the Custom House for

Rules to be observed in exportation of spirits.

exportation by sea shall, previous to shipment, be gauged and proved by an Officer of Customs.

Any drawback to be allowed for spirits on which duty has been paid shall be regulated by the strength and quantity of such spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

146. Duty shall be recoverable upon any

Duty to be recovered on any deficiency in spirits under bond.

difference between the quantity of spirits passed from a distillery and the quantity ascertained by gauge and proof at the Custom House, less an allowance for ullage and wastage at such rates as are from time to time prescribed by the Local Government and notified in the official Gazette.

147. A drawback of duty of Excise paid on

Drawback of Excise duty on spirits manufactured after English method.

spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of section 110, shall be allowed by the Officer in charge of the Custom House at the Port of exportation.

Provided that the exportation be made within one year from the date of payment of such duty of Excise, and that the spirits, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

148. No drawback shall be allowed on spirits

No drawback allowed on spirits exported to Indian Ports not being Customs Ports, but such spirits may be exported under bond.

exported from any Customs Port in British India to any other Customs Port.

But it shall be lawful, on the conditions and under the rules from time to time pre-

scribed under section 143, to export from any such Port to any other such port, under bond for the duty of excise, spirits manufactured in British India after the English method.

Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such port of the full quantity of such spirits so exported, less an allowance for allage and wastage at the rates from time to time prescribed by the Local Government and notified in the official Gazette.

149. Spirits manufactured in British India

Duty on spirits exported from one India Port to another how to be adjusted.

after the English method and exported under bond for the duty of Excise from any Port in British India to any other Port in British India not being a Customs Port, shall be chargeable at the Port of destination with duties of Customs at the ordinary rate fixed for duties on spirits of the like kind and strength imported into such Port.

150. Rub-shrub, cordial, and other such liquor

Rum-shrub, &c., how to be charged with duty.

prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of distillery shall be charged with duty according to the quantity of spirit used in its preparation as ascertained by such Surveyor or Officer.

The provisions of this Act respecting spirits

May be exported under same rules as spirits.

manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor.

When any such liquor is removed for exportation without payment of duty of Excise, the bond to be executed by the person removing it shall be in the Form marked H hereto annexed, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

151. Spirits brought to the Custom House

Spirits intended for exportation may be removed for local consumption.

for exportation under bond for the duty of excise may, on payment of such duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise.

Credit for every such payment shall be given on settlement of the bond to which it relates.

152. No drawback shall be allowed for any

Conditions of drawback and remission of duty on spirits.

spirits on which duty has been paid, nor shall the duty due on any spirits under bond be remitted, unless the spirits are shipped from the Custom House, and in a vessel whereon an Officer of Customs has been appointed to superintend the receipt of export-cargo.

Spirits shipped for exportation shall not be

Reload of spirits shipped.

reloaded without a special pass from an Officer of Excise, in addition to the usual order of the Officer in charge of the Custom House.

153. The Local Government may from time to

Power to make rules for ascertaining that imported spirit has been rendered unfit for human consumption.

time prescribe rules for ascertaining and determining what spirit imported into British India shall be deemed to have been effectually and permanently rendered unfit for human consumption, so as to be subject only to an *ad valorem* duty of ten per cent. or other duty for the time being in force, and for causing such spirit, to be so rendered, if necessary, by their own officers, before the duty of customs leviable thereon is levied, and at the expense of the person importing it.

Such rules, on being published in the local official Gazette, shall have the force of law.

154. In the absence of any such rules, or if

Decision where no rules or their applicability disputed.

any dispute arises as to their applicability, the Executive Officer of highest rank in the Department of Customs in the Port shall decide what spirit is subject only to the said *ad valorem* duty, and such decision shall be final.

#### CHAPTER XIV.

##### CUSTOM-HOUSE AGENTS.

155. No person shall act in any Custom House

Agents must be duly authorized.

as an agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorized so to do by the Officer in charge of the Custom House.

Such Officer may require any person so authorized to give a bond with sufficient securities, in any sum not exceeding five thousand rupees, for his faithful behaviour as regards the Custom House regulations and Officers.

Such Officer may, in case of misbehaviour, suspend or withdraw such authorization, but an appeal against every such suspension or withdrawal shall lie to the Chief Controlling Revenue Authority, whose decision thereon shall be final.

156. When any person makes application to

Agents to produce authority if required.

any officer of Customs to transact any business on behalf of any other person, such officer may require the applicant to produce a written authority from the person or whose behalf such business is to be transacted, and in default of the production of such authority may refuse to transact such business.

The clerk or servant or known agent of any person or of any mercantile firm may transact business at the Custom House, on account of such person or firm, if such person or a member of such firm identifies to the officer in charge of the Custom House the person so empowered to transact his or their business, and deposits with such officer a written authority duly signed, empowering such officer to pay to such person all drawbacks, refunds, and other moneys for which he produces receipts.

#### CHAPTER XV.

##### DUPLICATE BILLS OF ENTRY.

157. Upon the entry or clearance of any goods

Importer or exporter to deliver a duplicate of bill of entry or shipping bill if required.

for importation or exportation, the importer, exporter, owner, or consignee, or the agent of such importer

exporter, owner, or consignee, shall if the Officer in charge of the Custom House so requires, deliver to such officer a duplicate of the bill of entry or shipping bill thereof.

In such duplicate all sums and numbers may be expressed in figures.

#### CHAPTER XVI.

##### TAXING OF SAMPLES.

158. Any officer in charge of a Custom House

Officer in charge of Custom House may take samples of goods

may on the entry or clearance of any goods or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which duties are payable, or for any other necessary purpose.

Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to him as the Officer in charge of the Custom House directs.

#### CHAPTER XVII.

##### MISCELLANEOUS PROVISIONS.

159. The Governor-General in Council may

Power to fix values of dutiable goods.

from time to time, by notification in the *Gazette of India*, fix for the purpose of levying duties, the value of any goods exported or imported by sea on which duties of Customs are thereby imposed.

160. When duty or other Customs-dues or

Payment of duties short-levied or erroneously refunded.

charges have been short-levied through inadvertence, error, or misconception on the part of the Officers of Customs,

or when duty, after having been levied, has been erroneously refunded.

the person chargeable with the duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment or making of the refund,

and the Officers of Customs may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

161. No duty or other Customs-dues or

No refund of charges erroneously levied or paid, unless application be made within six months.

charges which have been charged and paid, and of which, or of a portion of which repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within six months from the date of such payment.

162. The unshipping, carrying, shipping and

Importer and exporter to pay expense incidental to compliance with Custom House rules.

landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, unpacking, bulking, sorting, lotting,

marking and numbering of goods, where such operations are necessary or permitted.

and the removing of goods to, and the placing of them in, the proper place of deposit.

**163.** No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury occurring to such goods at any time while they remain or are lawfully detained in any Custom House, or on any Custom House wharf, or under charge of any Officer of Customs, unless it be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

**164.** The Chief Customs Authority may from time to time fix the rate to be charged on goods left on any Custom House wharf or other authorized landing place or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority.

**165.** A duplicate of any certificate, manifest, bill, or other Custom House document may, on payment of a fee of not less than one rupee and not more than ten rupees, be furnished at the discretion of the Officer in charge of the Custom House, if he is satisfied that no fraud has been committed or is intended.

Such officer may also authorize any amendment to be made in any document, after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended.

**166.** No Commissioner or Collector of Customs or Officer of Customs whom a Commissioner or Collector of Customs deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

## CHAPTER XVIII.

### OFFENCES AND PENALTIES.

**167.** If any goods, the importation or exportation of which is for the time being prohibited or restricted, be imported into or exported from British India contrary to such prohibition or restriction;

or if any attempt be made so to import or export any such goods by the port or otherwise;

or if any such goods be found in any package produced to any Officer of Customs as containing no such goods;

or if any such goods or any goods subject to a duty or restriction in respect of importation or exportation, be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any port in British India;

or if any goods, the exportation of which is, or shall be prohibited or restricted, be brought to any wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction;

such goods, together with any goods which shall be found packed with or used in concealing them, shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand rupees.

**168.** If it be found, when any goods are entered at or brought to be passed through a Custom House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them;

or that the contents thereof have been wrongly described in such entry or application as regards the denominations, characters, or circumstances according to which such goods are chargeable with duty, or are being imported or exported;

or that the contents of such packages have been wilfully mis-stated in regard to sort, quality, quantity or value;

or that goods not stated in the entry or application have been fraudulently concealed in, or mixed with, the articles specified therein, or have been packed to deceive the Officers of Customs;

such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

**168a.** Any person infringing any rule or order made under section 38 by the Chief Customs Authority, or by the Chief Officer of Customs, shall be liable to a penalty not exceeding five hundred rupees.

**169.** If, in any River or Port wherein a place has been fixed under section 43 by the Local Government, the Master of any vessel arriving from a Foreign Port or place wilfully omits, before passing beyond such place, to deliver to the Pilot, Officer of Customs, or other person duly authorised to receive the same, a manifest, signed by the Master, and in the form and containing the particulars indicated in the same section, in so far as they are applicable to his ship, cargo and voyage;

or if any manifest so delivered does not contain a true specification of all goods imported in such vessel;

such Master shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

**170.** Any Master remaining outside or below any such fixed place, and wilfully omitting, for the space of twenty-four hours after anchoring, to deliver his manifest, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

If, after any vessel arriving from any Foreign Port or place has entered any Customs Port and in which a place has not been fixed under section 44, the Master of such vessel wilfully omits, for the space

Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.

Goods brought to be passed through Custom House liable to confiscation in case of discrepancy, misdescription, &c.

For infringing rules under section 38.

For proceeding inward beyond fixed place before delivery of manifest.

For omitting to deliver manifest when vessel anchors below reporting station.

For like omission when reporting station has not been fixed.



of twenty-four hours after anchoring, to deliver as required by that section his manifest to the Pilot, Officer of Customs, or other person authorized to receive the same, such Master shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

**171.** Every Pilot, Officer of Customs or other person authorized to receive a manifest from any Master of a vessel, and refusing so to do, or failing to countersign the same or to enter the particulars referred to in section 43, shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

**172.** If any vessel arriving from any Foreign Port or place at any Customs Port shall, after having come to its proper place of mooring or unloading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of the Indian Ports Act, 1875, directly to some other place of mooring or unloading, the Master of such vessel shall in every such case, be liable to a penalty not exceeding one thousand rupees, and the vessel shall not be allowed to enter until the penalty is paid.

**173.** The Master of any vessel arriving at any Port in British India from any Foreign Port or place who, when so required under section 38, fails to bring to at any such station as has been appointed by the Chief Customs Authority for the boarding of vessels by an Officer of Customs, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

**174.** Every Master of a vessel refusing to receive on board an Officer of Customs deputed as provided in section 39, shall be liable to a penalty not exceeding five hundred rupees for each day during which such officer is not received on board; and the vessel shall not be allowed to enter until the penalty is paid.

**175.** Any Master wilfully disobeying any direction contained in section 40 shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

**176.** Any Master of a vessel discharging or suffering to be discharged any goods not duly entered in the manifest of such vessel, shall be liable to a penalty not exceeding one thousand rupees.

**176a.** Any goods found concealed in any place, box, or closed receptacle in any vessel, and not duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

**177.** If any Master of a vessel refuses to allow such vessel, or any box, place, or closed receptacle in such vessel, to be searched when so required by an Officer of Customs bearing a written order to search;

or if an officer of Customs places any lock, mark, or seal upon any goods, and such lock, mark, or seal is wilfully opened, altered, or broken, before due delivery of such goods;

or if any such goods are secretly conveyed away;

or if any hatchway or entrance to the hold, after having been fastened down by an officer of Customs, is opened without his permission;

in every such case the master of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand rupees.

**178.** If any bill of lading or copy required under section 47 is false; or has been altered with fraudulent intent;

or if the goods mentioned in any such bill of lading, or in any bill of lading of which a copy is so produced, have not been *bona fide* shipped on board of such vessel;

or if any such bill of lading delivered under the same section, or any bill of lading of which a copy is so delivered, by any such master, has not been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped;

or if any part of the cargo has been staved, destroyed, or thrown overboard;

or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the officer in charge of the Custom House;

in every such case the master shall be liable to a penalty not exceeding one thousand rupees.

**179.** If any goods be found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the Chief Officer of Customs directs.

**180.** If any goods entered in the manifest of a vessel are not found on board of the vessel; or if the quantity so found is short, and if such deficiency is not accounted for to the satisfaction of the officer in charge of the Custom House,

the master of such vessel shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value.

**181.** Any master of a vessel causing or suffering any goods to be removed contrary to any of the provisions of section 42 shall in every such case be liable to a penalty not exceeding one thousand rupees; and all goods so removed shall be liable to confiscation.

**182.** If any goods removed from on board any vessel for the purpose of being landed and passed for importation, are not landed as provided in section 56,

or if the boat containing such goods be found out of the proper track between the vessel and such wharf or other proper place of landing, and such deviation be not accounted for to the satisfaction of the Officer in charge of the Custom House,

such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation,

and the person by whose authority the goods are being landed, and the person in charge of the boat, shall be liable to a penalty not exceeding twice the amount of the duty leviable on the said goods.

**183.** Any goods landed or transhipped contrary to the provisions of section 57 shall be liable to confiscation.

**184.** If any goods sent to be landed be found without the boat-note required by section 58 in any boat proceeding to land, such goods shall be liable to confiscation; and the person by whose authority the goods are being landed, or the person in charge of the boat, shall be liable to a penalty not exceeding twice the amount of duty leviable on the said goods.

**185.** If, without entry duly made, any goods are taken or passed out of any Custom House or wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred rupees.

Any prohibited or dutiable goods found, either before or after landing, concealed in any passenger's baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

**186.** If, after any goods have been landed and before they have been passed through the Custom House, the importer, owner or consignee, or his agent or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the revenue, such goods shall be liable to confiscation;

or, if the goods cannot be recovered, the owner shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of such duty, if the goods be capable of being assessed therewith; or, if they be not, to a penalty not exceeding one thousand rupees for every missing or deficient package of unknown value.

**187.** If any goods entered to be warehoused under this Act are carried into the warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding one thousand rupees.

**188.** If any goods entered to be warehoused under this Act are withheld, or removed from any proper place of examination, before they have been examined and certified by the proper officer, such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.

**189.** When goods are passed by tale or by pack-  
age, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or misdescription thereof tending to injure the revenue, be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission on misdescription, unless it be proved to the satisfaction of the Officer in charge of the Custom House that the variance was accidental.

If the quantity or value of any goods has been overstated on importation, the error may be rectified at any time before the warehousing of the goods is completed.

**190.** If any warehoused goods be not warehoused in accordance with section 75,

or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in section 81,

or if any such goods be removed from the warehouse in which they were originally deposited, except in presence or with the sanction of the proper officer, or under the proper authority for their delivery,

such goods shall be liable to confiscation.

**191.** If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty rupees.

**192.** If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, fails, on the requisition of any officer of Customs, to produce any goods which have been deposited in such warehouse, and which have not been duly cleared and delivered therefrom, he shall, for every such neglect, be liable not only to pay the duties due on such goods, but also to a penalty not exceeding fifty rupees in respect of every package or parcel so missing or deficient.

**193.** If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or, after being duly warehoused, are fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

**194.** If the person who has obtained a license for any private warehouse licensed under this Act does not open the same when required so to do by any Officer entitled under this Act or under any other law to have access thereto, or, upon demand made by any such Officer at any time within the hours of business at the Port, refuses access to any such Officer, such person shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

**195.** If the importer, owner, or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner, or consignee, clandestinely opens any warehouse, or, except in presence of the proper officer of Customs, gains access to his goods, such importer, owner, consignee, or agent shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

**196.** If any goods lodged in a private warehouse are found to be deficient at the time of delivery therefrom, the person who obtained the license for such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the duty chargeable on the goods so deficient.

**197.** If any goods lodged in a private warehouse are found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary duty thereon.

When any penalty is incurred under this section or section 196, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

**198.** Whoever takes any goods out of any warehouse without payment of duty, or who aids, assists, or is concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

If the person so offending be an Officer of Customs not acting in execution of his duty, and he be prosecuted to conviction by the importer, owner, or consignee of such goods, no duty shall be payable in respect of such goods. For any damage so occasioned by such Officer, the Officer in charge of the Custom House shall, with the sanction of the Chief Customs Authority, make due compensation to such importer, owner, or consignee.

**199.** Whoever violates any rule prescribed under section 103 shall be liable to a penalty not exceeding one thousand rupees.

**200.** If any goods be taken on board of any vessel at any Port in British India before she has been entered outwards at such Port, in accordance with section 107, the Master

of such vessel shall be liable to a penalty not exceeding one thousand rupees.

**201.** If the Master of any vessel laid up under section 103 by the withdrawal of Customs Officer, shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master shall be liable to a penalty not exceeding one thousand rupees, and the goods, if protected by a pass, shall be liable to be reloaded for examination at the expense of the vessel, and, if not protected by a pass, shall be liable to confiscation.

**202.** Whoever causes or suffers any goods to be shipped or water-borne to be shipped contrary to any of the provisions of section 109 shall, in every such case, be liable to a penalty not exceeding one thousand rupees; and any goods so shipped or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation.

**203.** Any Master or Officer refusing to receive any boat-note in accordance with section 111, or receiving the same and failing to deliver it when required so to do by any Officer of Customs authorized to make such requisition, shall be liable to a penalty not exceeding five hundred rupees.

**204.** Any Master of a vessel who attempts to depart without a port-clearance, shall be liable to a penalty not exceeding five hundred rupees.

If any vessel actually departs without a port-clearance, the Master shall be liable to a penalty not exceeding one thousand rupees;

and such penalty may be levied by the Chief Officer of Customs of any Customs Port to which such vessel proceeds, or in which she is, and in Aden by such Officer as the Governor of Bombay in Council appoints in this behalf.

**205.** Every Pilot convicted before a Magistrate of an infraction of the rule prescribed by section 113, shall be liable to a penalty not exceeding one thousand rupees.

**206.** If any goods liable to duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the manifest of any vessel, are not duly shipped before the departure of such vessel, or are not duly certified by the proper officer as short-shipped, such goods shall be liable to confiscation.

If any goods not enumerated in such manifest are taken on board of any such vessel, the Master shall be liable to a penalty not exceeding fifty rupees in respect of every package of such goods.

If any goods duly shipped on board of any such vessel be landed at any place other than that for which they have been cleared, the Master of such vessel shall, unless the cir-

circumstances be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

207. If any vessel actually departs, after fail-

*Lever of penalty for failure to bring-to when required under section 39.*

ing to bring-to when required at any station appointed under section 38, the penalty leviable under section 204 from the Master of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel proceeds, or in which she is, or, in case of Aden, by such officer as the Governor of Bombay in Council appoints in this behalf.

A certificate of such failure to bring-to when required purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *prima facie* proof of the fact so certified.

208. If any goods on account of which draw-

*For deficiency in goods on which drawback has been paid on board vessel returning to port or putting into another port.*

back has been paid be not found on board of any vessel referred to in section 119, the Master shall be liable to penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of the Custom House.

209. All goods entered for drawback, which

*Confiscation of goods entered for drawback, which are less in value than the amount.*

are of less value than the amount of the drawback claimed, shall be liable to confiscation.

210. If any goods on the entry of which for

*Drawback goods if not exported, or if reloaded, liable to confiscation, and parties concerned to penalty.*

re-export drawback has been paid, are not duly exported to a Foreign Port or place, or are unshipped or reloaded at any Customs Port (not having been duly reloaded or discharged as short-shipped under the care of an Officer of Customs, or under section 118 or section 119) such goods, together with any vessel used in so unshipping or reloading them, shall be liable to confiscation;

and the Master of the vessel from which such goods are so unshipped or reloaded, and any person by whom or by whose orders or means such goods are so unshipped or reloaded, or who aids or is concerned in such unshipping or reloading, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.

211. Any wine referred to in section 129 not

*Wine not laden, or unladen without permission, liable to confiscation.*

laden on board of the ship for which it was intended, or unladen from such ship without the permission of the proper Officer of Customs, shall be liable to confiscation.

212. If, in contravention of any rules made

*For contravention of rules as to coasting trade.*

under section 132, any goods are taken into or put out of any coasting vessel;

or any coasting vessel touches at any Foreign Port or place, or deviates from her voyage, unless forced by unavoidable circumstances;

or if the Master of any coasting vessel which has touched at a Foreign Port or place fails to declare the same in writing to the Officer in

charge of the Custom House at the Port in British India at which such vessel afterwards first arrives,

the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to pay double duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary duty which shall in every case be levied on such goods.

213. If upon examination, any package entered

*For breach of rules as to cargo-book.*

in the cargo-book required by section 133, as containing Foreign goods is found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package is found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation.

If the Master of any vessel mentioned in section 133 fails correctly to keep, or to cause to be kept, a cargo-book, or to produce the same on demand;

or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered;

or if any goods entered as laden and not noted as delivered, be not on board,

the master shall be liable to a penalty not exceeding five hundred rupees.

214. Any Master violating any rule made

*For breach of rules under section 134.*

under section 133 shall be liable to a penalty not exceeding one hundred rupees.

215. If any account required by section 135

*For signing false account.*

be false, the Master filling in or signing the same shall be liable to a penalty not exceeding five hundred rupees.

216. On failure to produce the certificate men-

*For failure to produce certificate.*

tioned in section 136, or to show sufficient reason for its non-production, the parties to the bond therein mentioned shall be bound to pay a penal sum equal to double the amount of Customs duties which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a Foreign Port.

217. Any Master of a coasting vessel arriving

*For failure of Master of coasting vessel to deliver pass.*

at the port of discharge who fails, within twenty-four hours after arrival, to deliver a pass as required by section

138, shall be liable to a penalty not exceeding two hundred rupees.

218. If, contrary to the provisions of this or

*For breach in respect of lading, carrying coastwise, and unloading.*

any other Act relating to the Customs, any goods are laden on board of any vessel in any Port or place in British India and carried coastwise,

or any goods which have been brought coastwise are unladen in any such Port or place,

or any goods are found on board of any coasting vessel without being entered in the clearance thereof,

such goods shall be liable to confiscation, and the Master of such vessel shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

**219.** The Master of any coasting vessel refusing to bring any document to the officer in charge of the Custom House, when so required under section 140, shall be liable to a penalty not exceeding two hundred rupees.

**220.** After the issue of a notification under section 141 with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation, and the owner or the person in charge of the boat shall be liable to a penalty not exceeding one hundred rupees.

**221.** Whoever wilfully contravenes any rule made under section 153 shall be liable to fine not exceeding five hundred rupees.

**222.** Whoever, not being authorized under section 155, acts as an agent for the transaction of business as therein mentioned, shall for every such offence be liable to a penalty not exceeding five hundred rupees.

**223.** Whoever, without a special pass from an Officer of Excise at the place of exportation, relands or attempts to reland any spirituous liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred rupees;

and all such liquor, together with every cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

**224.** Every importer, exporter, owner, or consignee, and every agent of any such importer, exporter, owner, or consignee, wilfully failing to comply with the provisions of section 157, shall be liable to a penalty not exceeding two hundred rupees.

**225.** Any goods put, without the authority of the Officers of Customs, on board of any tug-steamer or pilot-vessel from any sea-going vessel inward bound,

and any goods put, without such authority, out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward bound vessel,

and any goods on which drawback has been granted put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being relanded,

shall be liable to confiscation, and the Master of such tug-steamer or pilot vessel or sea-going vessel shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

**226.** If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek or arm of the sea, for the purpose of being landed or shipped,

at any Port or place, which, at the date of such landing, shipment, attempt or bringing, has not been declared to be or does not exist as a Port for the landing and shipment of goods,

such goods shall be liable to confiscation, together with any ship, boat, carriage or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

**227.** Any person shipping or landing goods or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act;

and any person found to have been on board of any vessel liable to confiscation under section 226 while such vessel is within any bay, river, creek, or arm of the sea which has not been declared to be, and is not existing as a Port for the landing or shipment of goods,

shall be liable to a penalty not exceeding one thousand rupees.

**228.** All goods found on board any boat in excess of the boat-note or Custom-house pass, whether such goods are intended to be landed or to be shipped on board any vessel, shall be liable to confiscation.

**229.** If any vessel which has been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river, creek, or arm of the sea in British India, light or in ballast, and if the Master be unable to give a due account of the Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

**230.** The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture.

The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof.

Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation, shall in like manner be liable to confiscation.

**231.** If any person in charge of or owning a vessel has become liable to any fine or penalty on account of any act or omission relating to the Customs, the Officer in charge of the Custom House may refuse port-clearance to such vessel until the fine or penalty be discharged.

If any person passing goods through the Custom House has become liable to any fine or penalty, the Officer in charge of the Custom House may detain such goods until the fine or penalty be discharged.



**232.** Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs, or other person duly employed for the prevention of smuggling.

Persons reasonably suspected may be detained.

**233.** Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the customs may be detained, in any place, either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels, goods, and persons may be seized or detained.

**234.** Every vessel and all goods seized on the ground that they are liable to confiscation shall, as soon as conveniently may be, be delivered into the care of the officer appointed to receive the same.

Vessels and goods seized how to be dealt with.

If there be no such officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to the place of seizure.

If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest office appointed by the Chief Customs Authority for the deposit of goods so seized.

**235.** Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before a Magistrate or Officer in charge of a Custom House.

Persons detained to be taken nearest to Magistrate or Officer of Custom House.

**236.** When any person detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, is taken before a Magistrate, such Magistrate may, if he see reasonable cause, order him to be detained in gaol or in the custody of the Police for such time as is necessary to enable such Magistrate to communicate with the Officers of Customs.

Persons taken before a Magistrate for offences under Customs Acts may be detained or admitted to bail.

Provided that any person so detained shall be liberated on giving recognizance or security to the satisfaction of the Magistrate to appear at such time and place as such Magistrate appoints for his appearance.

**237.** If any person liable to be detained under this or any other Act relating to the Customs, is not detained at the time of committing the offence for which he is so liable, or, after detention, makes his escape, he shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Any person escaping may be afterwards detained.

**238.** When any person employed on the crew of any of Her Majesty's ships is detained under this or any other Act relating to the Customs, the detaining officer shall forthwith give notice thereof to

Persons in Her Majesty's Navy, when detained, to be secured on board until warrant procured.

the Commanding Officer of the ship, who shall thereupon place such person in security on board of such ship, until the detaining officer has obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law.

The Magistrate shall duly grant a warrant upon complaint made to him by the detaining officer, stating the offence for which the person is detained.

**239.** When any vessel or goods is or are seized, or any person is detained under this or any other Act relating to the Customs, the Officer or other person making such seizure or detention, shall, on demand of the person in charge of the vessel or goods so seized, or of the person so detained, give to such person a statement in writing of the reason for such seizure or detention.

When seizure is made, seizing officer to give reason in writing.

**240.** When any goods liable to confiscation under this or any other Act relating to the Customs are seized by any Police Officer on suspicion that they have been stolen, such

Procedure in respect of goods seized on suspicion.

Officer may carry such goods to any Police station or Court at which a complaint or information connected with the stealing or receiving of such goods has been made, or an inquiry connected with such stealing or receiving is in progress, and there detain such goods until the dismissal of such complaint or information, or the conclusion of such inquiry or of any trial thence resulting.

In every such case the Police Officer seizing the goods shall send written notice of their seizure and detention to the nearest Custom House; and immediately after the dismissal of the complaint or information, or the conclusion of the inquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law.

If any Police Officer whose duty it is under this section to send a written notice or cause goods to be conveyed to a Custom House neglects so to do, he shall be liable to a penalty not exceeding one hundred rupees.

For neglect of Police Officer to give notice.

**241.** Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods; provided that he has reasonable ground to suppose that smuggled goods are contained therein.

Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.

**242.** The Magistrate of district or division of a district may on application by an Officer in charge of a Custom House stating his belief that dutiable or prohibited goods are secreted in any place in such district or division, issue a warrant to search for such goods.

Such warrant shall be executed in the same way, and shall have the same effect, as a search warrant issued under the Code of Criminal Procedure.

**243.** Any Officer of Customs duly employed for the prevention of smuggling may search any person on board of any vessel or boat.

Persons may be searched on reasonable suspicion.

in any Port in British India, or any person who has landed from any vessel or boat:

Provided that such officer has reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person.

If any person on board of any such vessel or boat, or who has landed from any such vessel or boat, upon being asked by any such officer whether he has dutiable or prohibited goods about his person or in his possession, affirms that he has not, and if any such goods are, after such denial, discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding threetimes the value of such goods.

**244.** When any Officer of Customs is about to search any person under the provisions of section 243, such person may require the said officer to take him, previous to search, before the nearest Magistrate or Officer in charge of a Custom House.

If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or officer in charge of a Custom House.

The Magistrate or officer in charge of a Custom House before whom any person is so brought shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made.

A female shall not be searched by any but a female.

**245.** If any Officer of Customs requires any person to be searched for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding one hundred rupees.

**246.** If any Officer of Customs, or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, he shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.

**247.** If any Officer of Customs, or other person duly employed for the prevention of smuggling, practises or attempts to practise any fraud for the purpose of injuring the Customs Revenue, or abets or connives at any such fraud or any attempt to practise any such fraud, he shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding two years, or to fine, or to both.

**248.** No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving him a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof.

**249.** Whoever intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such officer or person, shall, on conviction before a Magistrate, be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or to both.

**250.** Whoever knowingly makes or signs or uses any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular;

and whoever counterfeits, falsifies, or fraudulently alters or destroys any such document, or any seal, signature, initials, or other mark made or impressed by any Officer of Customs in the transaction of any business relating to the Customs;

and whoever being required under this or any other Act relating to the Customs to produce any document, refuses or neglects to produce such documents;

and whoever, being required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs, does not truly answer such question,

shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand rupees.

**251.** Whoever subscribes or attests any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee, be liable in every such case to a penalty not exceeding one thousand rupees.

**252.** In every case in which, under this Act, any vessel, cart, or other means of conveyance, or any horse or other animal, is liable to confiscation;

or any goods are liable to confiscation or to increased rates of duty;

or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty,

an officer in charge of a Custom House, or if there be no such officer at the place where the confiscation or penalty or increased rates is or are incurred, or such other officer as the Local Government from time to time appoints in this behalf, may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, or increased rates of duty.

**253.** In respect to cases cognizable under section 252 by an Officer in charge of a Custom House, the Local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of duty.

Provided that the power to adjudge confiscation shall not extend, as regards a Deputy Collector, to goods of a greater value than one thousand rupees, nor, as regards an Assistant Collector or other subordinate officer, to goods of a greater value than one hundred rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector, to a sum exceeding fifty rupees, nor, as regards an Assistant Collector or other subordinate officer, to a sum exceeding ten rupees.

**254.** When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods, is adjudged under section 252 or section 253, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty.

The Officer adjudging confiscation shall take and hold possession of the same, and every officer of Police, on the requisition of such officer, shall assist him in taking and holding such possession.

**255.** In any case adjudicated by an Officer of Customs any party aggrieved by the award may, within three months from the date of the award, appeal to the Chief Customs Authority, or, in such cases as the Local Government directs to any other superior Officer of Customs empowered in that behalf by the Local Government.

Such authority or superior officer may thereupon make such further inquiry and pass such order as he thinks proper, confirming, altering, or annulling the original award.

Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rates of duty than has been adjudged against him in the original award.

**256.** The award of any confiscation, penalty, or increased rates of duty under this Act by an Officer of Customs shall not interfere with any punishment to which the person affected thereby is liable under any other law.

**257.** All offences against this Act, other than those cognizable under section 252 by an Officer in charge of a Custom House, may be adjudicated in a summary manner by a Magistrate.

**258.** If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act by an Officer of Customs or by a Magistrate, the Chief Customs Authority is of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

**259.** When a penalty is adjudged against any person under this Act by any Officer of Customs, such Officer, if the penalty be not paid, may levy the

same by sale of any goods of the said person which may be in his charge, or in the charge of any other Officer of Customs.

When an Officer of Customs who has adjudged a penalty against any person under this Act fails to realize the unpaid amount of such penalty from the goods of such person, such officer may notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to him may be, the name and residence of the said person and the amount of penalty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

**260.** When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine:—

If the penalty or fine do not exceed fifty rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed one hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months.

If the penalty or fine do not exceed five hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds five hundred rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

The Magistrate may at any time enforce payment of any penalty or fine or of any portion thereof by distress and sale of the defaulter's goods.

**261.** The imprisonment imposed in default of payment of fine or penalty under this or any other Act relating to the Customs shall terminate whenever that fine or penalty is either paid or levied by process of law.

**262.** If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine or penalty is paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

**263.** Whenever confiscation is authorized by this Act, the officer adjudging it may give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

**264.** The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a general fund, out of which the Chief Customs Authority may grant a reward to any person by whose information, assistance, or instrumentality, any seizure has been made or any offence punished.



## SCHEDULE.

## PART I.

## ACTS OF THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Number and year.	Title.	Extent of repeal.
V of 1838 XXI of 1856	Bengal Bonded Warehouse Association Act. An Act to consolidate and amend the law relating to the Abkarree Revenue in the Presidency of Fort William in Bengal.	Section twenty-eight. Section eight. Sections ten to sixteen, both inclusive.
VI of 1863	An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.	The whole.
XX of 1867	An Act to authorize the transshipment, without payment of duty, of goods imported into Calcutta, Madras and Bombay by steamers.	The whole.
X of 1868	An Act to amend the Consolidated Customs Act.	The whole.
XVII of 1869	An Act to shorten the time for landing cargo.	The whole.
XVII of 1870	An Act to amend the law relating to customs duties.	Sections two, four, and five, and the proviso in section three.
XVIII of 1870	An Act to enable the Government of India to exempt goods from customs duties.	The whole.
XIV of 1871	An Act for the further amendment of the Consolidated Customs' Act.	The whole.
VI of 1873	An Act to amend the law relating to the transshipment of goods imported by steamer, and for other purposes.	The whole.
XVI of 1875	An Act to amend the law relating to customs duties, and for other purposes.	Sections six, seven, and twelve.

## PART II.

## FORMS.

## A

## FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(See section 68.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to comply with my request to be furnished with a license under the Consolidated Customs Act 1877, for a warehouse situated at \_\_\_\_\_ and about the distance of \_\_\_\_\_ from the Custom House. The dimensions and other particulars of the godown are stated below. It is intended for the reception of all goods, as a general store-house (or as the case may be). The period of license not to exceed (mention the time for which required).

## Particulars of godown.

	Feet.	Inches.	
Length	...	...	Dry, airy, well flued and pakka-built; can contain with perfect safety and convenience _____ tons of goods (as the case may be.)
Breadth	...	...	
Height	...	...	

This godown is my own property (or the property of \_\_\_\_\_, from whom I have engaged the same on a lease of \_\_\_\_\_)

(Signed) ( )

Name of Applicant.

Place

Date

## B

## FORM OF APPLICATION TO WAREHOUSE GOODS.

(See section 69).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT  
SIR,

PLEASE to order the reception into the public warehouse (or the private warehouse) of  
Mr. A. B. situate at \_\_\_\_\_ dated \_\_\_\_\_ and licensed by No. \_\_\_\_\_  
arrived from (Port or place to be mentioned) on the (British or other) ship \_\_\_\_\_ of the undermentioned goods  
whereof \_\_\_\_\_ is Master.

The duty upon these goods has been adjusted in the manner specified below:—

Marks and numbers of packages.	Description of packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of Customs duty.	Date and number of importation.	Specification of the parties of bonds if the duty upon goods has been bonded.
1	2	3	4	5	6	7	8

(Signed) ( )

Name of owner, agent, or consignee of goods.

Place

Date

## C

## FORM OF BOND FOR IMPORT DUTY.

(See sections 71 and 72).

BOND.

No.

18

We, A. B.,

now of

; and C. D.,

of the same place, are jointly and severally bound to Her Majesty's Secretary  
of State for India in the sum of Government Rupees \_\_\_\_\_ to be paid to said Secretary of State

for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation or the condition thereof the same may be heard and determined in the High Court of Judicature at

Sealed with our seals (      date      )

(Signed)

The above  
having applied to the

bounden  
Officer in charge of the Custom House at  
for and obtained permission to lodge in the warehouse  
period of      the following good, that is to say—  
imported by Sea from      on board of the  
ship      and entered in the Custom House Books  
as No.      of the Register of Goods imported by Sea;

The condition of this Bond is, that;

If the      their heirs, or representatives, shall observe all  
the rules prescribed in The Consolidated Customs Act, 1877, to be observed by owners, importers  
or consignees of goods warehoused, and by persons obtaining permission to warehouse goods  
under the provisions thereof;

And if the said      their heirs, or representatives, shall pay to the Officer in charge  
of the Custom House at the Port of      all dues whether of Customs, warehouse  
dues or lawful charges which shall be demandable on the said goods, or on account of penalties  
incurred in respect to them, within

from the date of this Bond, or within such further time as the Chief Customs Authority  
of      shall allow in that behalf, together with interest on every such  
sum at the rate of six per cent. per annum from the date of demand thereof being made in  
writing by the said Officer in charge of the Custom House;

And if, within the term so fixed or enlarged, the said goods or any portion thereof having  
been removed from the said warehouse for home-consumption or re-exportation by sea, the full  
amount of all Customs duties, warehouse dues, lawful charges and penalties demandable as  
aforesaid shall have been first paid on the whole of the said goods;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the  
same shall be in full force.

Sealed with our seals (      date      )

(Signed) (      )

D

#### FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(See section 87).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

Sir,

PLEASE to order to be passed from the public warehouses      (or private warehouse)  
of Messrs. A & Co., situate at      and licensed under the Consolidated Customs  
Act, 1877, by No.      dated      the undermentioned goods intended  
for exportation by Sea on the      ship      whereof      is



**F**  
**FORM OF SHIPPING BILL—(See Section 109).**

Shipping Bill ... {  
 1. Warehouse ~~is~~ drawback goods.  
 2. Foreign goods not for drawbacks.  
 3. Goods exported under special rule of restriction.  
 4. Country goods subject to duty.  
 5. Country goods not subject to duty.

(State, as described, the class to which the goods to be exported belong.)

Ship's name.	Whether British or Foreign; if Foreign, the country.	Master's name.	Port or place of destination.	Mark.	Numbers.	Description of packages.	Quantity, quality, and description of goods.	Rate of value for Duty.	Total value for Duty.	Declared real value under section 28.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12

I claim drawback on

I declare the value of the goods above described to be

( Name of Exporter or Agent.  
Dated day of

Here state particulars according to the above headings.

{ Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in Register of Customs House.

( Name of Officer in charge of Customs House.







## FORM OF BONDED WAREHOUSE WARRANT.

(See Section 101.)

I do hereby certify that  
 of the undermentioned goods have deposited in the Warehouse  
 engage on demand, after payment of rent and incidental charges and Government dues or  
 customs chargeable thereon, to deliver to the said which goods, the  
 assigns, or to the holder of this warrant to whom it may be transferred by endorsement. or their

## STATEMENT OF OBJECTS AND REASONS.

As long ago as 1870 the necessity of a thorough amendment of the Consolidated Customs Act (VI of 1863) was recognized, owing both to the additional legislation which had already taken place, and the numerous improvements which the various local authorities had represented to be necessary, chiefly in consequence of the altered conditions of trade.

Leave to introduce a Bill to consolidate and amend the law relating to Sea Customs was given by the Council of the Governor-General for making Laws and Regulations to Sir Richard Temple on the 16th August, 1870, but the measure was not proceeded with owing to difficulties connected with the application to India of 32 & 33 Vic., cap. 11 (for amending the law relating to the Coasting Trade and Merchant Shipping in British Possessions).

These difficulties appear, from further communication with Her Majesty's Secretary of State for India, to have been removed, and the Bill of 1870 is again brought forward, with the addition of the consolidation in it of the Acts specified in the margin, and of certain changes which have been recommended by the local authorities.

Of those changes the chief are as follows:—

Provision is made (section 6) for the settlement of disputes as to the proper rate of duty payable in respect to any goods without detention of the goods during settlement.

Where a contract has been entered into for the sale of dutiable goods at a fixed price including the duty leviable at the date of the contract, and before the contract is fully performed the duty is raised or lowered, and levied accordingly, the Bill (section 33) declares that the price shall be increased or diminished (as the case may be) by the amount by which the duty is so raised or lowered. Where during transit by sea to British India the duty on any goods is raised, the duty payable on arrival will be only the duty in force when the transit commenced, and where such duty is lowered, the duty leviable will be only such reduced duty.

In the case of steamers the Bill provides (section 44) that the master may enter in the manifest the name of the ship's agent as that of the consignee of any cargo, and that the Chief Customs Authority may treat him as such consignee, provided he gives security against claims for damage or short delivery.

Power is given (section 46) to permit (subject to rules) bulk to be broken prior to receipt of the original manifest and the entry of the vessel at the Custom House.

For the purpose of landing import cargo and shipping export cargo no charge will be made (sections 50 and 108) for the services of several Customs Officers for respective periods, the aggregate of which does not exceed fifteen working days.

Power has been given (section 114) to grant port clearance before delivery of the manifest when the ship's agent furnishes sufficient security for duly delivering it within three days from the date of the grant.

Whenever goods are confiscated the owner will have an option (section 263) to pay a fine in lieu of losing his goods.

It is expected that the Bill will be considerably improved in Committee in respect of numerous matters known to require attention, owing to the opening of the Suez Canal and the alterations affected by the telegraph in the conditions of modern trade, by suggestions of the various Maritime authorities, and by the co-operation of the mercantile community.

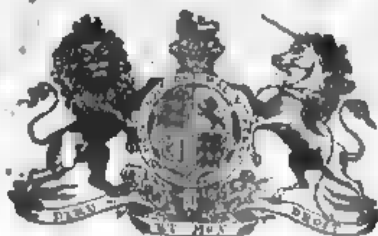
SIMLA;

The 26th October 1876.

T. C. HOPE.

WHITLEY STOKES,

Secy. to the Government of India.



# The Calcutta Gazette.

WEDNESDAY, NOVEMBER 29, 1876.

## PART VI.

### Bill of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd November 1876:—

Telegram from Secretary of State, dated 6th December 1875.  
From Officiating Secretary to Chief Commissioner, Central Provinces, No. 624--16, dated 22nd February 1876, and enclosure.  
" Officiating Secretary to Chief Commissioner, Oudh, No. 1226G, dated 15th March 1876, and enclosure.  
" Government of Bengal, No. 1166J, dated 27th March 1876, and enclosure.  
" " of Bombay, No. 3652, dated 20th June 1876, and enclosure.  
" " of Panjab, No. 174C, dated 19th July 1876, and enclosure.  
" J. G. W. Sykes, Esq., dated 21st July 1876.  
" Chief Commissioner, British Burma, No. 1162--38, dated 27th July 1876, and enclosure.  
Note by J. Pier Kennedy, Esq., dated September 1876.

We, the undersigned Members of the Select Committee to which the Bill to define and amend the law relating to certain kinds of Specific Relief was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

#### Preliminary.

2. In the interpretation-clause, we have omitted the definition of 'discretion,' the object of the definition being, we think, sufficiently attained by the first clause of section 21. We have amended the definition of 'obligation' so as to preclude the idea that only duties enforceable by the Criminal Courts were intended, and we have struck out the definition of 'agreement,' which does not harmonize with that contained in the Contract Act. To the illustrations of the definition of 'trustee,' we have added one showing that an employé receiving, without his employer's assent, commission on articles purchased for his employer, is a trustee of the commission so received. We have, lastly, declared that all words (such as 'contract') occurring in the Bill, which are defined in the Contract Act, shall have the meanings given them by that Act; and throughout the Bill we have used 'contract' for 'agreement' whenever a valid agreement is intended.

3. In section 4, we have struck out the clause rendering English law inapplicable to the kinds of relief dealt with by the Bill. For some time, at all events, the rules of the Bill,

will have to be elucidated by reference to the decisions of the English Courts. To the same section we have added a clause saving the Registration Act, which might have been held to have been affected by some of the subsequent provisions of the Bill.

4. To the four kinds of specific relief enumerated in section 5, we have added a fifth—the appointing of a receiver; and, in a subsequent part of the Bill, we have dealt with this matter by reference to the revised Code of Civil Procedure.

#### *Recovering possession of Property.*

5. To the three cases mentioned in section 11, in which a person in possession, not as owner, of moveable property may be compelled to deliver it, we have added a fourth, namely, when the possession of the thing claimed has been wrongfully transferred from the claimant. For illustration (b), we have substituted the following:—"Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver it to A."

#### *Specific Performance.*

6. In section 12, we have struck out the clause relating to an express agreement between the parties to the contract that specific performance thereof may be required by either. It would, we fear, have been always inserted in agreements between money-lenders and landholders, and might have been treated by the Courts as limiting the discretion which we intend to confer upon them. We have also struck out illustration (c), which goes further than we think desirable in enabling the Courts to compel persons to become partners.

7. Section 13 of the Bill as introduced provides (in strict accordance with English law) that when either party to an agreement is entitled to specific performance, the other party is also entitled to it. The Standing Counsel, Mr. Pitt Kennedy (to whom we are indebted for a valuable Note on the Bill), suggests that this would introduce a principle which found its place in Courts of Equity rather from a desire for symmetry than from its inherent utility. We feel the force of this objection, and we have therefore struck out the section.

8. We have inserted a clause (section 13 of Bill No. II) providing that, notwithstanding anything contained in section 56 of the Indian Contract Act, a contract is not wholly impossible of performance because a portion of its subject-matter existing at its date has ceased to exist at the time of the performance. The illustrations appended to this new clause will sufficiently show its propriety.

9. Section 16 of the Bill as introduced forbids the specific performance of part of a contract except in cases coming under section 14 or section 15. We have also excepted cases where a part of the contract, which, taken by itself, can and ought to be specifically enforced, stands on a separate and independent footing from another part which cannot or ought not to be so enforced: see sections 16 and 17 of Bill No. II.

10. We think the case put first in section 21 of the Bill as introduced (agreements the terms of which the Court cannot find with reasonable certainty) comes more suitably among the cases specified in the previous section (now numbered 21), of agreements not specifically enforceable. We have, accordingly, transposed it. We have extended clause (b) of the latter section to agreements so dependent on the personal qualifications or volition of the parties that the Court cannot enforce specific performance of the material terms, and we have illustrated this by the case of an agreement to marry. Clause (g) of the same section in the Bill as introduced declares that a contract, the performance of which involves the performance of continuous duties over a longer period than five years from its date, shall not be specifically enforced. We have reduced this period to three years. We have forbidden specific performance of a contract of which a material part of the subject-matter, supposed by both parties to exist, has, before it has been entered into, ceased to exist. The rule of the Bill as introduced which precludes specific performance of contracts to refer to arbitration has been considered with reference to the English law and the decision of Phear, J., in *Korglar v. The Caringa Oil Company*, I. L. R. 1 Cal. 42 (which has been affirmed on appeal) on the one hand, and to the second paragraph of the first Exception to section 28 of the Contract Act and a recent decision of the Madras High Court (8 Mad. 56) on the other. We have come to the conclusion that the rule ought to be maintained; and we have expressly repealed the paragraph in question, embodying, however, in the Bill the provision that if any person who has entered into a contract to refer to arbitration and refuses to perform it, sues in respect of any subject which he has contracted to refer, the existence of the contract shall bar the suit, and saving such remedies as are provided in the Civil Procedure Code.

11. We have extended section 23, clause (c), to cases of compromise of doubtful rights between members of the same family.

12. In section 24, we have altered illustration (b), which the recent decision in *Dawson v. Over-Maasey*, 2 Ch. Div. 753, has rendered doubtful, and added an illustration turning on uncertainty of fact.

13. To section 25, we have added an illustration showing that a person entering into a contract in the character of an agent cannot enforce specific performance when he is in reality acting on his own account.

14. Section 28 deals with cases in which the plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation. We have added the case in which the object of the parties is to produce a certain legal result which the contract as framed is not calculated to produce.

15. We have inserted a section (30) declaring that the provisions of the Bill as to specific performance of contracts shall apply, *mutatis mutandis*, to awards and to testamentary directions to execute settlements.

16. Where a decree for specific performance of a contract of sale has been made, we have empowered (section 35) the Court, by order in the suit in which such decree has been passed and not complied with, to rescind the contract, either so far as regards the party in default, or altogether, as the justice of the case may require. We have added an illustration of clause (c) of the same section.

#### *Cancellation of Instruments.*

17. To the section (39) relating to the cancellation of instruments, we have added a clause empowering the Court, if the instrument has been registered, to cause the fact of the cancellation to be noted in the Registry Office.

#### *Declaratory Decrees.*

18. We think that the Courts should be barred from making declaratory decrees only in cases where the plaintiff, being able to seek further relief than a mere declaration of right, omits to do so. We see no sound reason for compelling a man, when others advance a claim to property which he believes to be his own, to wait till his evidence may be lost, to keep his arrangements for his family uncertain, or to suffer from a possibly serious diminution in the value of that property. We have therefore altered accordingly section 42 and illustration (c).

#### *Enforcement of Public Duties.*

19. We have, by section 45, confined the exercise of the power to make orders in the nature of a *mandamus* to the local limits of the ordinary original civil jurisdiction of the Presidency High Courts. We have restricted the power to apply for such orders to cases in which the applicant's property, franchise or personal right would be injured by the act complained of, and in which that act is clearly required by some law for the time being in force. And we have declared that the High Courts shall not make any order expressly excluded by some existing law.

#### *Perpetual Injunctions.*

20. We have struck out from section 54 the clause (analogous to that struck out of section 12) which permits the grant of a perpetual injunction where the parties have agreed in writing that, in case of invasion of the plaintiff's property, such injunction shall be granted. We have explained that, for the purpose of section 54, a trademark is property—a matter on which a recent case (*Singer Manufacturing Company v. Wilson*, 2 Ch. Div. 440) has thrown some doubt.

21. From section 55 we have struck out the clause forbidding the Courts to grant injunctions to prevent libels. Notwithstanding the present Lord Chancellor's decision in *Prudential Assurance Company v. Knott*, 44 L. J. Ch. 192, we do not see why breach of the obligation not to injure a man's reputation should not be restrained like the breach of any other obligation, and the provision in section 7 will prevent any clashing with the criminal law.

22. We have, lastly, cancelled some of the illustrations and transposed or amended others. We think that the Bill has been so altered as to require republication, and we recommend that it be republished accordingly in the *Gazette of India* and the local Gazettes.

SIMLA;

7th October 1876.

A. HOBHOUSE.  
T. G. HOPE.  
F. R. COCKBELL.

**No. II.**  
**THE SPECIFIC RELIEF BILL,**  
**1877.**

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## SCHEDULE.—Enactments repealed.

*A Bill to define and amend the Law relating to certain kinds of Specific Relief.*

WHEREAS it is expedient to define and amend the law relating to certain kinds of specific relief obtainable in civil suits; It is hereby enacted as follows:—

Preamble.

## PART I.

## PRELIMINARY.

1. This Act may be called "The Specific Relief Act, 1877."

Short title.

- It extends to the whole of British India, except the Scheduled Districts as defined in Act No. XIV of 1874;

Local extent.

And it shall come into force at once.

Commencement.

2. The Acts specified in the schedule hereto annexed are repealed to the extent mentioned in its third column.

Repeal of enactments.

3. In this Act, unless there be something repugnant in the subject or context,—

Interpretation clause.

'obligation' includes every duty enforceable by law;

'trust' includes every species of express, implied, or constructive fiduciary ownership;

'trust.'

'trustee' includes every person holding, expressly, by implication, or constructively, a fiduciary character;

## Illustrations.

(a). Z bequeaths land to A, not doubting that he will pay thereout an annuity of Rs. 1,000 to B for his life. A is a trustee within the meaning of this Act for B to the extent of the annuity.

(b). A is the legal, medical, or spiritual adviser of B. By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee for B within the meaning of this Act of such advantage.

(c). A, being B's banker, discloses for his own purposes the state of B's account. A is a trustee within the meaning of this Act of the benefit gained by him by means of such disclosure.

(d). A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee within the meaning of this Act of the renewed lease.

(e). A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee within the meaning of this Act of the profit so made.

(f). A, the manager of B's indigo factory, becomes agent for C, a vendor of indigo-seed, and receives, without B's assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(g). A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, of the land so bought.

(h). A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act, to the extent of that interest.

'settlement' means any instrument (other than a will or codicil as defined by the Indian Succession Act)

whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled;

and all words occurring in this Act, which are Words defined in Code defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively assigned to them by that Act.

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed—

Savings.

(a) to give any right to relief in respect of any agreement which is not a contract;

(b) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or

(c) to affect the operation of the Indian Registration Act on documents.

Specific relief how given. 5. Specific relief is given—

(a) by taking possession of certain property and delivering it to a claimant;

(b) by ordering a party to do the very act which he is under an obligation to do;

(c) by preventing a party from doing that which he is under an obligation not to do;

(d) by declaring and determining the rights of parties otherwise than by an award of compensation; or

(e) by appointing a Receiver.



6. Specific relief granted under clause (c) of section 5 is called preventive relief.

7. Specific relief cannot be granted for the mere purpose of enforcing a penal law.

## PART II.

### OF SPECIFIC RELIEF.

#### CHAPTER I.

##### OF RECOVERING POSSESSION OF PROPERTY.

(a).—*Possession of Immoveable Property.*

8. A person entitled to the possession of specific immoveable property may recover it in the manner prescribed by the Code of Civil Procedure.

9. If any person is dispossessed without his consent of immoveable property otherwise than in due course of law, he or any person claiming through him may, by suit instituted within six months from the date of the dispossession, recover possession thereof, notwithstanding any other title that may be set up in such suit.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

(b).—*Possession of Moveable Property.*

10. A person entitled to the possession of specific moveable property may recover the same in the manner prescribed by the Code of Civil Procedure.

EXPLANATION 1.—A trustee may sue under this section for the possession of property to the beneficial interest in which another is entitled.

EXPLANATION 2.—A special or temporary right to the present possession of property is sufficient to support a suit under this section.

##### Illustrations.

(a). A bequeaths land to B for his life, with remainder to C. A dies. B enters on the land, but C, without B's consent, obtains possession of the title-deeds. B may recover them from C.

(b). A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession, whatever right he may have to secure their safe custody.

(c). A receives a letter addressed to him by B. B gets back the letter without A's consent. A has such a property therein as entitles him to recover it from B.

(d). A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under section 168 of the Indian Contract Act, 1872.

(e). A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

11. Any person having the possession or control of a particular article of moveable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:—

(a) when the thing claimed is held by the defendant as the agent or trustee of the claimant;

(b) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed;

(c) when it would be extremely difficult to ascertain the actual damage caused by its loss;

(d) when the possession of the thing claimed has been wrongfully transferred from the claimant.

##### Illustrations.

of clause (a).—A, proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B, without A's authority, pledges the furniture to C, and C, knowing that B had no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee.

of clause (b).—Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver it to A.

of clause (c).—A is entitled to a picture by a dead painter and a pair of rare China vases. B has possession of them. The articles are of too special a character to bear an ascertainable market-value. B may be compelled to deliver them to A.

#### CHAPTER II.

##### OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(a). *Contracts which may be specifically enforced.*

12. Except as otherwise provided in this chapter, the specific performance of any contract may in the discretion of the Court be enforced—

(a) when the act agreed to be done is in the performance, wholly or partly, of a trust;

(b) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done;

(c) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief; or

(d) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

EXPLANATION.—Unless and until the contrary is shown, it is to be presumed that the breach of a contract to transfer immoveable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved.

##### Illustrations.

of clause (a).—A holds certain stock in trust for B. A wrongfully disposes of the stock. The law creates an obligation on A to restore the same quantity of stock to B, and B may enforce specific performance of this obligation.

A sells 500 tons of iron stacked on his wharf to B, in consideration of a bill accepted by C, and undertakes in writing to deliver the iron to bearer, he (A) having been



paid for the same. B mortgages the iron to D. The bill is dishonoured. A refuses to deliver the iron. A holds the iron as a trustee for D, and D may compel him specifically to perform his contract.

A advances Rs. 10,000 to B, and B contracts to execute a mortgage of certain houses with an immediate power of sale to secure the repayment of the advance. A requires B either to pay off the advance at once or to execute the mortgage. B refuses. A is entitled to have the contract specifically performed.

of clause (b).—A agrees to buy, and B agrees to sell, a picture by a dead painter and two rare China vases. The articles are of too special a character to bear an ascertainable market-value. A may compel B specifically to perform this contract, for it would be extremely difficult to ascertain the actual damage caused by its non-performance.

of clause (c).—A contracts with B to sell him a house for Rs. 1,000. B is entitled to a decree directing A to convey the house to him, he paying the purchase-money.

In consideration of being released from certain obligations imposed on it by its Act of incorporation, a railway company contract with Z to make an archway through their railway to connect lands of Z severed by the railway, to construct a road between certain specified points, to pay a certain annual sum towards the maintenance of this road, and also to construct a siding and a wharf as specified in the contract. Z is entitled to have this contract specifically enforced, for his interest in its performance cannot be adequately compensated for by money; and the Court may appoint a proper person to superintend the construction of the archway, road, siding and wharf.

A contracts to sell, and B contracts to buy, a certain number of railway-shares of a particular description. A refuses to complete the sale. B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder, which cannot otherwise be procured.

A contracts with B to paint a picture for B, who agrees to pay therefor Rs. 1,000. The picture is painted. B is entitled to have it delivered to him on payment or tender of the Rs. 1,000.

of clause (d).—A transfers without endorsement, but for valuable consideration, a promissory note to B. A becomes insolvent, and C is appointed his assignee. B may compel C to endorse the note, for C has succeeded to A's liabilities, and a decree for pecuniary compensation for not endorsing the note would be fruitless.

**13. Notwithstanding anything contained in section 56 of the Indian Contract Act, a contract is not wholly impossible of performance, because a portion of its subject-matter existing at its date has ceased to exist at the time of the performance.**

#### Illustrations.

(a). A contracts to sell a house to B for a lakh of rupees. The day after the contract is executed, the house is destroyed by a cyclone. B may be compelled to perform his contract by paying the purchase-money.

(b). In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been entered into, B is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

**14. Where a party to a contract is unable to perform the whole of it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.**

#### Illustrations.

(a). A contracts to sell B a piece of land consisting of 100 bighás. It turns out that 98 bighás of the land belong to A, and the two remaining bighás to a stranger, who refuses

to part with them. The two bighás are not necessary for the use or enjoyment of the 98 bighás, nor so important for such use or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 bighás and to make compensation to him for not conveying the two remaining bighás; or B may be directed, at the suit of A, to pay to A on receiving the conveyance and possession of the land, the stipulated purchase-money, less a sum awarded as compensation for the deficiency.

(b). In a contract for the sale and purchase of a house and lands for two lakhs of rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

**15. Where a party to a contract is unable to perform the whole of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, the party in default is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of the contract as he can perform, provided that the party seeking specific performance relinquishes all claim to further performance, and all right to compensation, either for the deficiency, or for the loss or damage sustained by him through the default of the other party.**

#### Illustrations.

(a). A contracts to sell to B a piece of land consisting of 100 bighás. It turns out that 50 bighás of the land belong to A, and the other 50 bighás to a stranger, who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 bighás which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree directing A to convey those 50 bighás to him on payment of the purchase-money.

(b). A contracts to sell to B an estate with a house and garden for a lakh of rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree, directing A to convey the house to him on payment of the purchase-money.

**16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.**

**17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other of the three last preceding sections.**

**18. Where a person contracts to sell or let certain property, having only an imperfect title, then, to the purchaser or lessee (except the purchaser or lessee) an imperfect title, then, to the purchaser or lessee (except the purchaser or lessee) an imperfect title, then, to the purchaser or lessee (except the purchaser or lessee) an imperfect title.**

cept as otherwise provided by this chapter) has the following rights:—

(a) if the vendor or lessor has subsequently acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;

(b) where the concurrence of other persons is necessary to validate the title, and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence;

(c) where the vendor professes to sell unincumbered property, but the property is mortgaged for an amount not exceeding the purchase-money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and obtain a conveyance from the mortgagee;

(d) where the vendor or lessor sues for specific performance of the contract, and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to the costs of the suit, and to a lien for such deposit, interest and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

#### 19. Any person suing for the specific perform-

ance of a contract, may also ask for compensation for its breach, either in addition to, or in substitution for, such performance.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any such suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

**EXPLANATION.**—The circumstance that the contract has become incapable of specific performance, does not preclude the Court from exercising the jurisdiction conferred by this section.

#### Illustrations

of the second paragraph.—A contracts to sell a hundred maunds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion that A has made a valid contract and has broken it without excuse to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph.—A agrees with B to sell him a house for Rs. 1,000, the price to be paid and the possession given on the 1st January 1877. A fails to perform his part of the contract, and B brings his suit for specific performance and compensation, which is decided in his favour on the 1st January 1878. The decree may, besides ordering specific performance, award to B compensation for any loss or damage which he has sustained by A's refusal.

of the Explanation.—A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent. Before the hearing of the suit, the patent expires. The Court may award A compensation for the non-performance of the contract and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him,

and for compensation. All the shares had been allotted before the institution of the suit. The Court may, under this section, award A compensation for the non-performance.

20. A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

#### Illustration.

A contracts to grant B an underlease of property held by A under C, and that if C refuses to grant a license necessary for that purpose, A will pay B Rs. 10,000. A refuses to apply for the license and offers to pay B the Rs. 10,000. B is nevertheless entitled to have the contract specifically enforced.

(b). *Contracts which cannot be specifically enforced.*

Contracts not specifically enforceable.

21. The following contracts cannot be specifically enforced:—

(a) a contract for the non-performance of which compensation in money is an adequate relief;

(b) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms;

(c) a contract the terms of which the Court cannot find with reasonable certainty;

(d) a contract which is in its nature revocable;

(e) a contract entered into by trustees either in excess of their powers or in breach of their trust;

(f) a contract entered into by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers;

(g) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date;

(h) a contract of which a material part of the subject-matter, supposed by both parties, to exist has, before it has been entered into, ceased to exist.

And save as provided by Chapter XXXVII of the Code of Civil Procedure, no contract to refer a controversy to arbitration shall be specifically enforced; but if any person who has entered into such a contract and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

#### Illustrations

to (c).—A contracts to sell, and B contracts to buy, a lakh of rupees in the four per cent. loan of the Government of India.

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rs. 1,000 per chest.

In consideration of certain property having been transferred by A to B, B contracts to open a credit in A's favour to the extent of Rs. 10,000, and to honour A's drafts to that amount.

The above contracts cannot be specifically enforced, for, in the first and the second both A and B, and in the third A would be reimbursed by compensation in money.

to (b).—A contracts to render personal service to B :

A contracts to employ B on personal service :

A, an author, contracts with B, a publisher, to complete a literary work.

B cannot enforce performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made, A instructs his valuer not to proceed.

By a charter party entered into in Calcutta between A, the owner of a ship, and B the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London.

A lets land to B and B contracts to cultivate it in a particular manner for three years next after the date of the lease.

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contract grow particular crops on the land in his possession and deliver them to A when cut and ready for delivery.

A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B, he will paint a picture for B.

A contracts with B to execute certain works which the Court cannot superintend.

A contracts to supply B with all the goods of a certain class which B may require.

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, "if the drawing-room is handsomely decorated," even if it is held to have so much certainty that compensation can be recovered for its breach.

A contracts to marry B.

The above agreements cannot be specifically enforced.

to (g).—A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (d).—A and B contract to become partners in a certain business, the contract not specifying the duration of the proposed partnership. This contract cannot be specifically performed, for, if it were so performed, either A or B might at once dissolve the partnership.

to (e).—A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a covenant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced.

Two trustees, A and B, empowered to sell trust-property worth a lakh of rupees, contract to sell it to C for Rs. 80,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property and in fact agree to pay an extravagant price therefor. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (f).—A company existing for the sole purpose of making and working a railway, contracts for the purchase of a piece of land for the purpose of erecting a cotton-mill thereon. This contract cannot be specifically enforced.

to (g).—A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land, and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

to (h).—A contracts to pay an annuity to B for the lives of C and D. It turns out that, at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

### (c). Of the Discretion of the Court.

#### 22. The jurisdiction to decree specific performance.

Discretion as to decrees. Specific performance is discretionary, and in giving specific performance the Court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the Court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:—

I. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

#### Illustrations.

(a). A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy, and B contracts to sell, that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance. If B knew the fact, and C did not, specific performance should be refused to B.

(b). A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact the value of C's interest depends on the result of certain partnership-accounts, on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(c). A contracts to sell, and B contracts to buy, certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance should be refused to A.

(d). A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present seeing the vendor's attorney bidding, think that he is a mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance should be refused to B.

II. Where the performance of the agreement would involve some hardship on the defendant which he did not foresee, whereas no such hardship would fall on the plaintiff if the agreement was not performed.

#### Illustrations.

(a). A is entitled to some land under his father's will on condition that, if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty-five years, to sell the land to C. Here, the enforcement of the contract would operate so harshly on A, that the Court will not compel its specific performance in favour of C.

(b). A and B, trustees, join their beneficiary, C, in a contract to sell the trust-estate to D, and personally agree to exonerate the estate from heavy incumbrances to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(c). A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, shall not be obliged to define its boundary. The estate really comprises a valuable property not known to either to be part of it. Specific performance of the contract should be refused to B, unless he pays his claim to the unknown property.

(b). A contracts with B to sell him certain land, and to make a road to it from a certain railway-station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest, with compensation for loss of the road.

(c). A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used in and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance should be refused to B.

(d). A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(e). A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods, but if he does not supply them, A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the agreement should be refused to B.

III. The circumstance that the plaintiff has done substantial acts or suffered losses in consequence of a contract susceptible of specific performance is one which the Court may reasonably consider in exercising its discretion to grant specific performance of such contract.

#### Illustration.

A sells land to a railway company who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should be awarded in favour of A.

(d). *For whom Contracts may be specifically enforced.*

23. Except as otherwise provided by this chapter, the specific performance of a contract may be obtained by—

Who may obtain specific performance.

(a) any party thereto;

(b) the representative in interest, or the principal, of any party thereto: provided that, where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract;

(c) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder;

(d) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;

(e) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;

(f) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;

(g) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(h) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(e). *For whom Contracts cannot be specifically enforced.*

24. A contract for the sale or letting of property, whether moveable or immovable, cannot be specifically enforced in favour of a vendor or lessor—

Contracts to sell property by one who has no title, or who is a voluntary settler.

(a) who, knowing himself not to have any title to the property, has contracted to sell or let the same;

(b) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt;

(c) who, previous to entering into the contract, has made a settlement of its subject-matter not founded on a valuable consideration.

EXPLANATION.—Marriage is a valuable consideration within the meaning of this section.

#### Illustrations.

(a). A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract, even though C is willing to confirm it.

(b). A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce the contract, as, in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(c). A, being in possession of certain land, contracts to sell it to Z. On enquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(d). A, out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A cannot enforce specific performance of this contract so as to override the settlement, and thus prejudice the interests of the persons claiming under it.

Personal bars to the relief.

25. Specific performance of a contract cannot be enforced in favour of a person—

(a) who could not recover compensation for its breach;

(b) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed; or

(c) who has already chosen his remedy and obtained satisfaction for the alleged breach of contract;

(d) who, previously to entering into the agreement, had notice that a settlement of the subject-matter thereof, not founded on marriage or other valuable consideration, had been made and was then in force.

#### Illustrations

to clause (a).—A, in the character of agent for B, enters into an agreement with C to buy C's house. A is in reality

acting, not as agent for B, but on his own account. A cannot enforce specific performance of this contract.

to clause (b).—A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, falls the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner: he cannot enforce the contract specifically, though A and B may sue each other for compensation for breach of it.

to clause (c).—A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract. A thereupon sues for, and obtains, compensation for the breach of contract. A cannot obtain specific performance.

(f). For whom Contracts cannot be specifically enforced except with a variation.

26. Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases (namely):—

(a) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;

(b) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;

(c) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part, which adds to the contract, but which he refuses to fulfil;

(d) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;

(e) where the parties have, subsequently to the execution of the contract, contracted to vary it.

#### Illustrations.

(a). A, B and C sign a writing by which they purport to contract each to enter into a bond to D for Rs. 1,000. In a suit by D, to make A, B and C separately liable each to the extent of Rs. 1,000, they prove that the word 'each' was inserted by mistake; that the intention was that they should give a joint bond for Rs. 1,000. A can obtain the performance sought only with the variation thus set up.

(b). A sues B to compel specific performance of a contract in writing to buy a dwelling-house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was so included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(c). A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions, and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the contract, except with the variation set up by B.

(d). A and B enter into negotiations for the purpose of securing land to B for his life, with remainder to his issue. They execute a contract the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(e). A contracts in writing to let a house to B, for a certain term, at the rent of Rs. 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place: B contracting orally to pay rent at Rs. 120 per mensem. B then sues to compel specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(g). Against whom Contracts may be specifically enforced.

27. Except as otherwise provided by this chapter, Relief against parties to, or persons claiming under them by subsequent title, a contract may be enforced against—

(a) either party thereto;

(b) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value, who has paid his money in good faith and without notice of the original contract;

(c) any person claiming under a title which, though prior to the contract, and known to the plaintiff, might have been displaced by the defendant;

(d) when a public company has entered into a contract, and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(e) when the promoters of a public company have, before its incorporation, entered into a contract, the company: provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

#### Illustrations

to clause (b).—A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rs. 5,000. A afterwards conveys the land for Rs. 8,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rs. 5,000. B takes possession of the land. Afterwards A sells it to C for Rs. 6,000. C makes no enquiry of B relating to his interest in the land. B's possession is sufficient to affect C with notice of his interest, and he may enforce the contract against C.

A contracts in consideration of Rs. 1,000, to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce the contract against C.

A contracts to sell certain land to B. Before the completion of the contract, A becomes a lunatic and C is appointed his committee. B may specifically enforce the contract against C.

to clause (c).—A, the tenant for life of an estate, with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alien in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.



**(d). Against whom Contracts cannot be specifically enforced.**

**28.** Specific performance of a contract cannot be enforced against a party thereto in any of the following cases:—

(a) if the consideration to be received by him is so grossly inadequate, with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud or of undue advantage taken by the plaintiff;

(b) if his assent was obtained by the misrepresentation (whether wilful or innocent), concealment, circumvention, or unfair practices, of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled;

(c) if his assent was given under the influence of mistake of fact, misapprehension or surprise: Provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision, and the contract may be specifically enforced in other respects if proper to be so enforced.

**Illustrations**

to clause (c).—A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 20 bighás of this land, but the auctioneer inadvertently sells the whole to B, who has not notice of the revocation. B cannot enforce specific performance of the agreement.

**(i). The Effect of dismissing a Suit for Specific Performance.**

**29.** The dismissal of a suit for specific performance of a contract shall

Bar of suit for breach after dismissal.

bar the plaintiff's right to sue for the breach of such contract.

**(j). Awards and Directions to execute Settlements.**

**30.** The provisions of this chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

Application of preceding sections to awards and testamentary directions to execute settlements.

**CHAPTER III.**

**OF THE RECTIFICATION OF INSTRUMENTS.**

**31.** When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest, may institute a suit to have the instrument rectified; and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument, and ascertain the real intention of the parties in executing the same, the Court may in its discretion rectify the instrument, so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons, in good faith and for value.

**Illustrations.**

(a). A, intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included.

Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud.

The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(b). By a marriage-settlement, A, the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators and assigns, during A's life, an annuity of Rs. 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children, may rectify the settlement, and decree that the assignee has no right to any part of the annuity.

**32.** For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

**33.** In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

**34.** A contract in writing may be first rectified and then, if the plaintiff has so prayed in his plaint and the Court thinks fit, specifically enforced.

**Illustration.**

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs.

The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks fit, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

**CHAPTER IV.**

**OF THE RESCISSION OF CONTRACTS.**

**35.** Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court, in any of the following cases, namely:—

(a) where the contract is voidable or terminable by the plaintiff;

(b) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff;

(c) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract either so

far as regards the party in default, or altogether, as the justice of the case may require.

#### Illustrations

to (a).—A sells an estate to B. There is a right of way over the estate of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (b).—A, an attorney, induces B, his client, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

**36.** Rescission of a contract in writing cannot be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

**37.** A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the Court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

**38.** On adjudging the rescission of a contract, the Court may require the party rescinding to do equity. The Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

### CHAPTER V.

#### OF THE CANCELLATION OF INSTRUMENTS.

**39.** Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

If the instrument has been registered, under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

#### Illustrations.

(a). A, the owner of a ship, by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(b). A conveys land to B, who bequeaths it to C and dies. Thereupon, D gets possession of the land, and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.

(c). A, representing that the tenants on his land were all willing, sells it to B and conveys it to him by an instrument dated the 1st January 1875. Soon after that day, A fraudulently grants to C a lease of part of the lands dated the 1st October 1874, and procures the lease to be registered under the Indian Registration Act. B may obtain the cancellation of this lease.

(d). A agrees to sell and deliver a ship to B, to be paid for by B's acceptance of four bills of exchange, for sums amounting to Rs. 20,000, to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all the bills.

**40.** Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part and allow it to stand for the residue.

#### Illustration.

A draws a bill on B, who endorses it to C, by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

**41.** On adjudging the cancellation of an instrument, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

### CHAPTER VI.

#### OF DECLARATORY DECREES.

**42.** Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief.

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of right, omits to do so.

**EXPLANATION.**—A trustee of property is a person interested to deny a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

#### Illustrations.

(a). A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(b). A bequeaths his property to B, C and D, to be equally divided amongst all and each of them, if living at the time of his death, then amongst their surviving children. No such children are in existence. In a suit against A's executor, the Court may declare whether B, C and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

(c). A covenants that if he should at any time be entitled to property exceeding one laka of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(d). A alienates to B property in which A has merely a life-interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(e). The widow of a sonless Hindû alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survives her, may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity and was therefore void beyond the widow's lifetime.

(f). A Hindû widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death without a son may, in a suit against the adopted son, obtain a declaration that the adoption was invalid.

(g). A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.



(A) A bequeaths property to B for his life, with remainder to B's wife and her children, if any, by B, but if B die without any wife or children, to C. B has a putative wife, D, and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C, and obtain therein a declaration that they are truly the wife and children of B.

43. A declaration made under this chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

#### Illustration.

A, a Hindû, in a will to which B, his alleged wife, and her mother are defendants, seeks a declaration that his marriage was duly solemnized and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

### CHAPTER VII.

#### OF THE APPOINTMENT OF RECEIVERS.

44. The appointment of a Receiver pending a suit is a matter resting in the discretion of the Court.

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

### CHAPTER VIII.

#### OF THE ENFORCEMENT OF PUBLIC DUTIES.

45. Any of the High Courts of Judicature at Fort William, Madras and Bombay may make an order requiring any specific act to be done or forbore, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office, whether of a permanent or a temporary nature, or by any corporation or inferior Court of Judicature: provided—

(a) that an application for such order be made by some person whose property, franchise, or personal right, would be injured by the forbearing or doing (as the case may be) of the said specific act;

(b) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character;

(c) that, in the opinion of the High Court, such doing or forbearing is consonant to right and justice;

(d) that the applicant has no other specific and adequate legal remedy; and

(e) that the remedy given by the order applied for will be complete.

Nothing in this section shall be deemed to authorize any High Court—

(f) to make any order binding on the Secretary of State for India in Council, on the Governor

General in Council, on the Governor of Madras in Council, on the Governor of Bombay in Council, or on the Lieutenant-Governor of Bengal;

(g) to make any order on any other servant of the Crown, as such, merely to enforce the satisfaction of a claim upon the Crown; or

(h) to make any order which is otherwise expressly excluded by any law for the time being in force.

46. Every application under section 45 must be founded on an affidavit of the person injured, stating his right in the matter in question, his demand of justice and the denial thereof; and the High Court may, in its discretion, either make the order applied for absolute in the first instance, or refuse it and grant a rule to show cause why the order applied for should not be made.

If, in the latter case, the person, Court or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

47. If the person, Court or corporation to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act absolutely.

48. Every order under this chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

49. The costs of all applications and orders under this chapter shall be in the discretion of the High Court.

50. Neither the High Court nor any Judge thereof shall hereafter issue any writ of mandamus.

51. Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure under this chapter; and until such rules are framed, the practice of such Court as to applications for and grants of writs of mandamus shall apply, so far as may be practicable, to applications and orders under this chapter.

### PART III.

#### OF PREVENTIVE RELIEF.

### CHAPTER IX.

#### OF INJUNCTIONS GENERALLY.

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

53. Temporary injunctions are such as are to continue until a specified time. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit: the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

## CHAPTER X.

### OF PERPETUAL INJUNCTIONS.

54. Subject to the other provisions contained in, or referred to by, this chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

When such obligation arises from contract, the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When such obligation arises from an actual or threatened invasion by the defendant of the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely)—

- (a) where the obligation arises from a trust;
- (b) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;
- (c) where the invasion is such that pecuniary compensation would not afford adequate relief;
- (d) where it is probable that pecuniary compensation cannot be got for the invasion;
- (e) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

EXPLANATION.—For the purpose of this section a trademark is property.

#### Illustrations.

(a). A lets certain land to B, and B contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(b). A trustee threatens a breach of trust. His co-trustees, if any, should, and the beneficial owners may, obtain an injunction to prevent the breach.

(c). The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may obtain an injunction to restrain them.

(d). The directors of a fire and life insurance company are about to engage in marine insurance. Any of the shareholders may obtain an injunction to restrain them.

(e). A, an executor, through misconduct or insolvency, is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

(f). A, a trustee for B, is about to make an imprudent sale of a small part of the trust-property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(g). A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(h). In the course of A's employment as a clerk, certain papers belonging to his client, B, come into his possession. A threatens to make those papers public, or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(i). A is B's medical advisor. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(j). A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from doing so.

(k). A lets certain arable lands to B for purposes of husbandry, but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(l). A, B and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership-property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(m). A, a Hindú widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir-expectant may sue for an injunction to restrain her.

(n). A, B and C are members of an undivided Hindú family. A cuts timber growing on the family-property, and threatens to destroy part of the family-house and to sell some of the family-utensils. B and C may sue for an injunction to restrain him.

(o). A, the owner of certain houses in Calcutta, becomes insolvent. B buys them from the official assignee and enters into possession. A persists in trespassing on and damaging the houses, and B is thereby compelled, at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(p). The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(q). A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(r). A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(s). A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(t). A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(u). A infringes B's patent. If the Court is satisfied that the patent is valid and has been infringed, B may obtain an injunction to restrain the infringement.

(v). A pirates B's copyright. B may obtain an injunction to restrain the piracy, unless the work of which copyright is claimed is libellous or obscene.

(w). A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(x). A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(y). A, a very eminent man, writes letters on family-topics to B. After the death of A and B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D, who is A's executor, has a property in the letters, and may sue for an injunction to restrain C from publishing them.

(z). A carries on a manufactory and B is his assistant. In the course of his business, A imparts to B a secret process of value. B afterwards demands money of A, threatening, in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process as being a thing contrary to his duty.

55. When, to prevent the breach of an obligation, it is necessary, to compel the performance of certain acts which the Court is capable of enforcing.

ing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

#### Illustrations.

(a). A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Indian Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(b). A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(c). In the case put as illustration (i) to section 54, the Court may also order all written communications made by B, as patient, to A, as physician, to be destroyed.

(d). In the case put as illustration (y) to section 54, the Court may also order A's letters to be destroyed.

(e). A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Indian Penal Code. The Court may grant an injunction to restrain the publication, even though it may be shown not to be injurious to B's property.

(f). A, being B's medical adviser, threatens to publish B's communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(g). In the cases put as illustrations (x) and (w) to section 54, and as illustrations (e) and (f) to this section, the Court may also order the copies produced by piracy, and the trademark statements and communications therein respectively mentioned, to be given up or destroyed.

Injunction when refused. **56. An injunction cannot be granted—**

(a) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;

(b) to stay proceedings in a Court not subordinate to that from which the injunction is sought;

(c) to restrain persons from applying to any legislative body;

(d) to interfere with the public duties of any department of the Government of India or the Local Government, or with the sovereign acts of a Foreign Government;

(e) to stay proceedings in any criminal matter;

(f) to prevent the breach of an agreement the performance of which would not be specifically enforced;

(g) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;

(h) to prevent a continuing breach in which the applicant has acquiesced;

(i) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust;

(j) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;

(k) where the applicant has no personal interest in the matter.

#### Illustrations.

(a). A seeks an injunction to restrain his partner, B, from receiving the partnership-debts and effects. It appears that A had improperly possessed himself of the books of the firm and refused B access to them. The Court will refuse the injunction.

(b). A manufactures and sells crucibles, designating them as "patent plumbago crucibles," though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(c). A sells an article called "Mexican Balm," stating that it is compounded of diverse rare essences, and has sovereign medicinal qualities. B commences to sell a similar article to which he gives a name and description such as to lead people into the belief that they are buying A's Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A's Mexican Balm consists of nothing but scented hog's lard. A's use of his description is not an honest one and he cannot obtain an injunction.

**57. Notwithstanding section 56, clause (f),** where a contract comprises an affirmative agreement to do a certain act,

coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement, shall not preclude it from granting an injunction to perform the negative agreement; provided that the applicant has not failed to perform the contract so far as it is binding on him.

#### Illustrations.

(a). A contracts to sell to B for Rs. 1,000 the good-will of a certain business unconnected with business-promises, and further agrees not to carry on that business in Calcutta. B pays A the Rs. 1,000, but A carries on the business in Calcutta. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Calcutta.

(b). A contracts to sell to B the good-will of a business. A then sets up a similar business close by B's shop, and solicits his old customers to deal with him. This is contrary to his implied contract, and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(c). A contracts with B to sing for twelve months at B's theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of entertainment.

(d). B contracts with A that he will serve him faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival-house as clerk.

(e). A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance. B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

### SCHEDULE.

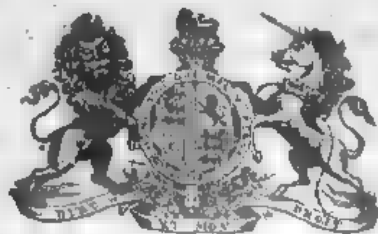
(See section 2.)

#### ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
VIII of 1859	Civil Procedure	Sections 15 and 182.
XIV of 1859	Limitation	Section 19.
IX of 1872	Contract	In section 28, the second clause of Exception 1.

WHITLEY STOKES,

Secy. to the Govt. of India.



# The Calcutta Gazette.

WEDNESDAY, DECEMBER 6, 1876.

## PART VI.

### Bill of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 29th November 1876, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 18 of 1876.

*A Bill to amend the Law relating to Treasure-trove.*

WHEREAS it is expedient to amend the law relating to treasure-trove; It is hereby enacted as follows:—

Preamble.

#### Preliminary.

1. This Act may be called "The Indian Treasure-trove Act, 1877."

Short title.

Extent.

Commencement.

It extends to the whole of British India;

And it shall come into force at once.

2. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

Repeal of enactments.

Interpretation.

"Treasure" includes gold-coin, silver-coin, bullion, gold and silver in a manufactured state, precious stones and other valuable property;

"Collector" means (1) the Collector of a District, (2) a Deputy Commissioner, and (3) any officer

appointed by the Local Government to perform the functions of a Collector under this Act.

#### Procedure on finding Treasure.

4. Whenever any treasure exceeding in amount or value twenty-five rupees is found buried in the earth or otherwise concealed, the finder shall, as soon as practicable, give to the Collector notice in writing—

(a) of the nature, amount or approximate value of the treasure so found;

(b) of the place in which it was found;

(c) of the date of the finding;

and shall either deposit the treasure in the Government Treasury, or give the Collector such security as he thinks fit to produce the treasure at such time and place as he may from time to time require.

5. On receiving a notice under section four, the Collector shall take the following steps (namely):—

(a) he shall publish a notification in such manner as the Local Government from time to time prescribes in this behalf, to the effect that, on a certain date (mentioning it), certain treasure (mentioning its nature, amount and approximate value) was found at a certain place (mentioning it); and requiring all persons claiming the treasure, or any part thereof or any interest therein, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than six months after the date of the publication of such notice;

(b) where the place in which the treasure was found was at the date of the finding in the possession of some person other than the finder, the Collector shall also serve on such person a special notice in writing to the same effect.

6. The Collector may, at any time before the day so notified, by writing under his hand declare his intention to acquire on behalf of Government the said treasure or any specified portion thereof, by payment to the persons interested therein of a sum equal to the intrinsic value of the said treasure or portion, and to one-fifth of such value; and thereupon, subject to the payment aforesaid, the said treasure or portion shall be deemed to be the property of Government.

7. On the day notified under section five, the Collector shall cause the treasure to be produced before him, and shall proceed to inquire into the value of the treasure, and (subject to the rules hereinafter prescribed) to determine the persons interested therein, and the amount payable to them respectively.

For the purpose of such inquiry, the Collector may summon and enforce the attendance of witnesses, and compel the production of documents, by the same means, and (as far as may be) in the same manner, as is provided in the case of a civil court under the Code of Civil Procedure; and the Collector may, if no claimant attends pursuant to the notice, or if, for any other cause, he thinks fit, from time to time postpone the inquiry to a day to be fixed by him.

8. In determining claims under this Act, and the amount to which the claimants are entitled, the Collector shall be guided by the following rules (namely):—

(a) if there is reason to think that the treasure was concealed more than one hundred years before the date of the finding, he shall not admit the claim of any person other than the finder of the treasure and the owner of the place in which the treasure was found;

(b) if the treasure was found in the process of executing some work (such as a road, a railway or a canal) for the benefit of the public, and if there be no claimant other than the finder, three-fourths of the amount, or, if the Collector prefers, the value of the treasure, shall be awarded to the finder and the residue to the Government;

(c) if the treasure was found in a place belonging to a private person, and such person and the finder have not entered into any agreement then in force as to the allotment of the treasure, three-fourths of the treasure shall be allotted to the finder and the residue to the owner of the place in which it was found. If such owner and the finder have entered into any such agreement, the treasure shall be allotted in accordance therewith;

(d) if the Collector has, under section six, declared his intention to acquire the whole or any portion of the treasure, the Collector shall (notwithstanding anything contained in clauses (a), (b), and (c) of this section) give effect to such declaration, and in such case the provisions of the said clauses as to the treasure shall be deemed to apply to the payment to be made for such treasure or portion in accordance with section six.

9. There shall be no appeal against any decision of the Collector under this Act, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

#### Penalties.

10. If the finder of any treasure to which this Act applies fails to give the notice, or to make the deposit, or to give the security, required by section four, the share of such treasure, or of the price payable for such treasure or any part thereof under section six, to which he would otherwise be entitled, shall vest in the Government, and he shall, on conviction before a Magistrate, be liable to fine not exceeding the intrinsic value of such treasure, and in default of payment, to imprisonment for a term which may extend to twelve months.

11. If the owner of the place in which any treasure to which this Act applies is found abets, within the meaning of the Penal Code, any failure to give the notice, make the deposit, or give the security, required by section four, the share of such treasure, or of the price payable for such treasure or any part thereof under section six, to which he would otherwise be entitled shall vest in the Government,

and he shall, on conviction before a Magistrate be liable to fine not exceeding the intrinsic value of such treasure, and in default of payment, to imprisonment for a term which may extend to six months.

#### SCHEDULE.

Number and date of enactments.	Title.	Extent of repeal.
Regul. Regulation V of 1817.	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on the discovery of such treasure.	The whole.
Madras Regulation XI of 1833.	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on discovery of such treasure.	The whole.
Act XII of 1836 ... Act IV of 1873 ...	Hidden Treasure (Madras) ... An Act for declaring which of certain rules, laws, and regulations have the force of law in the Punjab, and for other purposes.	The whole. So far as regards Bengal Reg. V of 1817.
Act XV of 1874 ...	Laws Local Statute ...	The second schedule so far as regards Madras Reg. XI of 1833. The fourth schedule so far as regards Bengal Reg. V of 1817.
Act XVII of 1875	An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.	So far as regards Bengal Reg. V of 1817.
Act XX of 1875 ...	An Act to declare and amend the law in force in the Central Provinces.	Ditto.
Act XVIII of 1875	Oudh Laws Act.	Ditto.

## STATEMENT OF OBJECTS AND REASONS.

The law of treasure-trove is in a very unsatisfactory state. At present there is one law in Madras and another in Bengal, while it is doubtful what the law is in Bombay, and in the three Presidency towns probably the English law prevails. Moreover, the law everywhere is bad and ineffective, and gives every inducement to finders to conceal or make away with their discoveries; and yet there is a good deal of treasure buried in India, and much of it of very high antiquarian and historical interest.

2. Under these circumstances the present Bill has been prepared. It provides, among other things, that—

(a) the finder shall give notice to the Collector of the district of the discovery of treasure, and either deposit the treasure in the Government Treasury, or give security for producing it when required;

(b) notice shall be given by the Collector to the owner or owners of the land where the treasure was found;

(c) the discovery of the treasure shall be advertised, and all claimants desired to come forward within six months;

(d) if there is reason to believe that the treasure was hidden or deposited more than a hundred years previously, no claim of any outside person shall be admitted;

(e) in the case of treasure found in a public place, such as in digging a road, a railway or a canal, such treasure shall vest, if more than a hundred years old, or if unclaimed, in the proportion of three-fourths in the finder and one-fourth in Government; and

(f) if the land or other property on which the treasure is found belongs to a private party, then the latter shall receive the Government share, unless the finder has made any previous agreement with such owner or owners, in which case the division shall be regulated according to that agreement.

3. The Bill adopts the principle of certain recent legislation in the north of Europe, which has practically worked well.

E. C. BAYLEY.

Calcutta, 22nd November 1876.

WHITLEY STOKES,

Secy. to the Govt. of India.





# The Calcutta Gazette

EXTRAORDINARY.

Published by Authority.

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CALCUTTA, MONDAY, DECEMBER 18, 1876.

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Government of Bengal.

In republishing for general information the following Gazette Extraordinary of the Government of India of Friday, December 15th,

The Lieutenant-Governor of Bengal desires that all honor and attention may be shown to His Grace the Duke of Buckingham and Chandos, G.C.S.I., Governor of the Presidency of Fort St. George, and to his suite, by all officers under the Government of Bengal.

By order of His Honor the Lieutenant-Governor,

R. L. MANGLES,

*Offg. Secy. to the Govt. of Bengal.*

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## MILITARY SECRETARY'S OFFICE.

### NOTIFICATION.

*Calcutta, the 15th December 1876.*

HIS GRACE THE DUKE OF BUCKINGHAM AND CHANDOS, G.C.S.I., Governor of the Presidency of Fort St. George, being expected to arrive at Calcutta on board the Indian Government Steamer *Tenasserim* on or about the 20th inst., on his way to the Imperial Assemblage at Delhi, the Honorable the President in Council is pleased to direct the following arrangements:—

When the *Tenasserim* passes Atcheepore, five guns will be fired from Fort William.

On the arrival of the vessel off Prinsep's Ghat, the Under-Secretary to the Government of India in the Home Department (in the absence of the Secretary), a Secretary to the Government of Bengal, the Chairman of the Justices of the Peace for the Town of Calcutta, and an Aide-de-Camp to the Viceroy, will proceed on board and ascertain when His Grace wishes to land.



These Officers, with the Brigadier General Commanding the Presidency District, will receive the Duke of Buckingham and Chandos on landing, and a detachment of Native Cavalry will escort His Grace to Government House.

A Guard of Honor of Native Infantry will be drawn up at Prinsep's Ghât, and one of British Infantry in front of the Grand Stairs of Government House.

A salute of seventeen guns will be fired on the landing of His Grace at Prinsep's Ghât.

On the departure of the Duke of Buckingham and Chandos for Delhi, the usual salute will be fired; Guards of Honor will parade at Government House and at the Howrah Railway Station, and His Grace will be escorted to the station by a detachment of Native Cavalry.

The Officers directed to be in attendance at the landing will also attend on His Grace at his departure from Calcutta.

By order of the Honorable the President in Council,

C. E. BATES, *Major,*

*Military Secretary to the  
Hon'ble the President in Council.*



# The Calcutta Gazette

EXTRAORDINARY.

Published by Authority.

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CALCUTTA, MONDAY, DECEMBER 18, 1876.

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Government of Bengal.

IN republishing for general information the following Gazette Extraordinary of the Government of India of Friday, December 15th,

The Lieutenant-Governor of Bengal desires that all honor and attention may be shown to His Grace the Duke of Buckingham and Chandos, G.C.S.I., Governor of the Presidency of Fort St. George, and to his suite, by all officers under the Government of Bengal.

By order of His Honor the Lieutenant-Governor,

R. L. MANGLES,

*Offg. Secy. to the Govt. of Bengal.*

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## MILITARY SECRETARY'S OFFICE.

### NOTIFICATION.

*Calcutta, the 15th December 1876.*

HIS GRACE THE DUKE OF BUCKINGHAM AND CHANDOS, G.C.S.I., Governor of the Presidency of Fort St. George, being expected to arrive at Calcutta on board the Indian Government Steamer *Tenasserim* on or about the 20th instant on his way to the Imperial Assemblage at Delhi, the Honorable the President in Council is pleased to direct the following arrangements:—

When the *Tenasserim* passes Atcheepore, five guns will be fired from Fort William.

On the arrival of the vessel off Prinsep's Ghât, the Under-Secretary to the Government of India in the Home Department (in the absence of the Secretary), a Secretary to the Government of Bengal, the Chairman of the Justices of the Peace for the Town of Calcutta, and an Aide-de-Camp to the Viceroy, will proceed on board and ascertain when His Grace wishes to land.

These Officers, with the Brigadier General Commanding the Presidency District, will receive the Duke of Buckingham and Chandos on landing, and a detachment of Native Cavalry will escort His Grace to Government House.

A Guard of Honor of Native Infantry will be drawn up at Prinsep's Ghât, and one of British Infantry in front of the Government House.

A salute of seventeen guns will be fired on the landing of His Grace at Prinsep's Ghât.

On the departure of the Duke of Buckingham and Chandos for Delhi, the usual salute will be fired; Guards of Honor will parade at Government House and at the Howrah Railway Station, and His Grace will be escorted to the station by a detachment of Native Cavalry.

The Officers directed to be in attendance at the landing will also attend on His Grace at his departure from Calcutta.

By order of the Honorable the President in Council,

C. E. BATES, Major,

*Military Secretary to the  
Hon'ble the President in Council.*